



IOWA ADMINISTRATIVE BULLETIN

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Pages 173 to 236

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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Capitol Building
Des Moines, IA 50319
Telephone: (515)281-3568

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Schedule for Rule Making 2004

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04
Jan. 16	Feb. 4	Feb. 24	Mar. 10	Mar. 12	Mar. 31	May 5	Aug. 2
Jan. 30	Feb. 18	Mar. 9	Mar. 24	Mar. 26	Apr. 14	May 19	Aug. 16
Feb. 13	Mar. 3	Mar. 23	Apr. 7	Apr. 9	Apr. 28	June 2	Aug. 30
Feb. 27	Mar. 17	Apr. 6	Apr. 21	Apr. 23	May 12	June 16	Sept. 13
Mar. 12	Mar. 31	Apr. 20	May 5	May 7	May 26	June 30	Sept. 27
Mar. 26	Apr. 14	May 4	May 19	May 21	June 9	July 14	Oct. 11
Apr. 9	Apr. 28	May 18	June 2	June 4	June 23	July 28	Oct. 25
Apr. 23	May 12	June 1	June 16	June 18	July 7	Aug. 11	Nov. 8
May 7	May 26	June 15	June 30	July 2	July 21	Aug. 25	Nov. 22
May 21	June 9	June 29	July 14	July 16	Aug. 4	Sept. 8	Dec. 6
June 4	June 23	July 13	July 28	July 30	Aug. 18	Sept. 22	Dec. 20
June 18	July 7	July 27	Aug. 11	Aug. 13	Sept. 1	Oct. 6	Jan. 3 '05
July 2	July 21	Aug. 10	Aug. 25	Aug. 27	Sept. 15	Oct. 20	Jan. 17 '05
July 16	Aug. 4	Aug. 24	Sept. 8	Sept. 10	Sept. 29	Nov. 3	Jan. 31 '05
July 30	Aug. 18	Sept. 7	Sept. 22	Sept. 24	Oct. 13	Nov. 17	Feb. 14 '05
Aug. 13	Sept. 1	Sept. 21	Oct. 6	Oct. 8	Oct. 27	Dec. 1	Feb. 28 '05
Aug. 27	Sept. 15	Oct. 5	Oct. 20	Oct. 22	Nov. 10	Dec. 15	Mar. 14 '05
Sept. 10	Sept. 29	Oct. 19	Nov. 3	Nov. 5	Nov. 24	Dec. 29	Mar. 28 '05
Sept. 24	Oct. 13	Nov. 2	Nov. 17	***Nov. 17***	Dec. 8	Jan. 12 '05	Apr. 11 '05
Oct. 8	Oct. 27	Nov. 16	Dec. 1	Dec. 3	Dec. 22	Jan. 26 '05	Apr. 25 '05
Oct. 22	Nov. 10	Nov. 30	Dec. 15	***Dec. 15***	Jan. 5 '05	Feb. 9 '05	May 9 '05
Nov. 5	Nov. 24	Dec. 14	Dec. 29	Dec. 31	Jan. 19 '05	Feb. 23 '05	May 23 '05
Nov. 17	Dec. 8	Dec. 28	Jan. 12 '05	Jan. 14 '05	Feb. 2 '05	Mar. 9 '05	June 6 '05
Dec. 3	Dec. 22	Jan. 11 '05	Jan. 26 '05	Jan. 28 '05	Feb. 16 '05	Mar. 23 '05	June 20 '05
Dec. 15	Jan. 5 '05	Jan. 25 '05	Feb. 9 '05	Feb. 11 '05	Mar. 2 '05	Apr. 6 '05	July 4 '05
Dec. 31	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 13, 2004	September 1, 2004
6	Friday, August 27, 2004	September 15, 2004
7	Friday, September 10, 2004	September 29, 2004

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. Bates, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.bates@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, August 10, 2004, at 9 a.m. and Wednesday, August 11, 2004, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the July 21, 2004, Iowa Administrative Bulletin.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

CDBG program—wage guidelines for career link program; distribution of unused funds, 23.4(7), 23.4(8),
23.9, 23.9(1), Notice ARC 3562B 8/4/04
Housing fund, 25.2, 25.4, 25.5, 25.5(5), 25.6(7), 25.6(9) to 25.6(11),
25.7, 25.8(6), 25.8(7), 25.9(2)“d,” Filed ARC 3563B 8/4/04

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”
Code of professional conduct and ethics, rescind chs 12 and 13; adopt ch 25, Filed ARC 3553B 8/4/04
Code of rights and responsibilities, adopt ch 26, Filed ARC 3554B 8/4/04

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]“umbrella”
Increase in wireless E911 surcharge rate, 10.8(1), 10.8(4), 10.8(5),
Filed ARC 3544B 8/4/04

HUMAN SERVICES DEPARTMENT[441]

Appeals and hearings for subjects of child or dependent adult abuse reports, 7.1, 175.40(3)“a” and “b,” 175.42(3)“a,”
175.42(3)“b”(4) and (5), Notice ARC 3548B, also Filed Emergency ARC 3547B 8/4/04
Medicaid premium increase for employed persons with disabilities coverage group, 75.1(39)“b”(1),
Notice ARC 3579B 8/4/04
Medicaid waiver for family planning services, 75.1(41), 76.1(1)“d,” 76.1(2), 76.7,
Notice ARC 3580B 8/4/04
Health insurance data match program, 76.13, Notice ARC 3545B, also Filed Emergency ARC 3546B 8/4/04
Offset against federal income tax refunds and federal nontax payments to recover delinquent child support,
95.7(1), 95.7(2), Notice ARC 3578B 8/4/04

INSPECTIONS AND APPEALS DEPARTMENT[481]

Critical access hospitals, 51.53(4), 51.53(5), Filed ARC 3555B 8/4/04
Admission procedures exemption for Iowa Veterans Home, 58.12(1)“l,” Notice ARC 3552B 8/4/04
Bingo, 103.1 to 103.3, 103.4(2)“d,” 103.4(4)“e,” 103.6(1), 103.6(4), 103.6(6), 103.13(1)“e,”
Notice ARC 3561B 8/4/04

IOWA FINANCE AUTHORITY[265]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]“umbrella”
Title guaranty division, rescind 9.1 to 9.19, adopt 9.1 to 9.15, Filed ARC 3560B 8/4/04
Low-income housing tax credits—qualified allocation plan, 12.1, 12.2, Notice ARC 3559B 8/4/04
State housing trust fund, 19.1, Notice ARC 3558B 8/4/04
Senior living revolving loan program, ch 20, Notice ARC 3557B 8/4/04
Home and community-based services revolving loan program, ch 21, Notice ARC 3556B 8/4/04

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”
Federal occupational safety and health regulations—adoption by reference,
4.3, 10.20, Filed Emergency After Notice ARC 3581B 8/4/04

MEDICAL EXAMINERS BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”
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9.6(3), 9.7(1), 9.7(2)“c,” 9.13(2)“a”(9), 9.13(2)“b,” 10.3(3)“a,” 10.3(3)“b”(11), 10.4(3)“a,”
10.4(3)“b”(10), 10.5(1)“c,” 10.5(1)“d”(11), 12.4(37), Filed ARC 3565B 8/4/04
Renewal and reinstatement fees, 8.4(1)“c” and “g,” 9.11(3)“a,” 9.13(1)“a,” Notice ARC 3564B 8/4/04
Permanent physician licensure, 9.3(1)“d,” 9.3(1)“d”(1), 9.5(2)“i,” 9.7(2)“c,” Notice ARC 3566B 8/4/04

PHARMACY EXAMINERS BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”
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10.3, 10.3(2), 12.7(2)“a” and “b,” 17.3(2), Filed Emergency After Notice ARC 3569B 8/4/04

PUBLIC HEALTH DEPARTMENT[641]

- Center for congenital and inherited disorders, ch 4 title, 4.1 to 4.3, 4.3(1)“b” and “c,” 4.3(2) to 4.3(10), 4.4(1), 4.4(3), 4.4(4)“f,” 4.4(5), 4.5(1) to 4.5(3), 4.6(1) to 4.6(6), 4.7, Filed **ARC 3575B** 8/4/04
- AIDS drug assistance program, 11.84 to 11.91, Notice **ARC 3571B** 8/4/04
- Control of lead-based paint hazards, ch 68, Filed **ARC 3574B** 8/4/04
- Special supplemental nutrition program for WIC, 73.2, 73.3, 73.5, 73.6(3), 73.7(1), 73.7(2)“b,” 73.7(3)“b,” 73.7(5), 73.7(7), 73.8(1)“a,” 73.8(2) to 73.8(4), 73.8(4)“a,” 73.8(4)“b”(4) and (6), 73.8(4)“c,” 73.9, 73.9(1) to 73.9(3), 73.10(1)“e,” 73.10(2), 73.11(1)“b,” 73.12(1)“d,” 73.12(2), 73.13(2), 73.13(9), 73.19(1)“a,” 73.19(1)“b”“6,” 73.19(1)“d,” 73.19(2), 73.19(2)“b,” 73.23, Filed **ARC 3576B** 8/4/04
- Volunteer health care provider program, 88.1, 88.3(1)“a,” 88.3(2)“b” and “c,” 88.5, 88.6(1), Filed **ARC 3577B** 8/4/04
- Vital records—fees, 96.4, Notice **ARC 3572B** 8/4/04
- Certificate of need program, 202.1(7), 202.1(11), 202.1(12), 202.3(2) to 202.3(4), Notice **ARC 3573B** 8/4/04

PUBLIC SAFETY DEPARTMENT[661]

- Criminal justice information, 8.302(8) to 8.302(13), 8.303(4), 8.303(8), 8.304, Filed Emergency **ARC 3549B** 8/4/04

REVENUE DEPARTMENT[701]

- Property tax, 70.1, 70.2, 70.6(1)“b,” 70.15, 71.5(2)“h,” 80.13, Notice **ARC 3570B** 8/4/04

TRANSPORTATION DEPARTMENT[761]

- Junkyard control; outdoor advertising, 116.1, 116.2, 116.3(1), 117.1, 117.3(1)“m,” 117.4, 117.5, 117.5(1)“a,” 117.5(5), 117.5(5)“b” to “d,” 117.6, Filed **ARC 3551B** 8/4/04
- Firefighter plates, 401.9, Filed **ARC 3550B** 8/4/04

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

- Purchased gas adjustment and reserve margin, 19.10(1) to 19.10(4), 19.10(6) to 19.10(8), 19.16, Filed **ARC 3567B** 8/4/04

VOTER REGISTRATION COMMISSION[821]

- Application for registration, ch 2 title, 2.1, 2.1(2), 2.8(2), 2.8(4) to 2.8(8), 2.9, 2.11, 2.14, 2.15, 5.1(1), 8.2, 8.2“2,” 8.4, 8.5, 10.1(1), 11.7, Filed **ARC 3568B** 8/4/04

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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DENTAL EXAMINERS BOARD[650]

Fingerprint packet and fee required for licensure, 11.2, 11.3, 11.5, 11.6, 11.8, 13.2, 14.5, 15.1	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	August 10, 2004 2 p.m.
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IAB 7/21/04 **ARC 3522B**

Costs of monitoring, 35.1(6), 51.19(9)	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	August 10, 2004 2 p.m.
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IAB 7/21/04 **ARC 3521B**

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

CDBG program—allocation of funds; wage guidelines for career link program, 23.4, 23.9	First Floor Northwest Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 26, 2004 1:30 p.m.
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IAB 8/4/04 **ARC 3562B**

EDUCATIONAL EXAMINERS BOARD[282]

Secondary mathematics endorsement, 14.141(13)	Room 3 South, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 10, 2004 11:30 a.m.
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IAB 7/21/04 **ARC 3540B**

Special education consultant, 15.3(1)	Room 3 South, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 10, 2004 10:30 a.m.
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IAB 7/21/04 **ARC 3542B**

Director of special education of an AEA, 15.3(11)	Room 3 South, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 10, 2004 11 a.m.
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IAB 7/21/04 **ARC 3543B**

School social worker statement of professional recognition, 15.3(15)	Room 3 South, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 10, 2004 10 a.m.
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IAB 7/21/04 **ARC 3541B**

ELDER AFFAIRS DEPARTMENT[321]

Alarm systems on doors in assisted living facilities, 25.1, 25.37(2)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 10, 2004 10:30 a.m.
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IAB 7/21/04 **ARC 3530B**

(ICN Network)

Public Library, South entrance 21 E. Third St. Spencer, Iowa	August 10, 2004 10:30 a.m.
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Public Library 400 Willow Ave. Council Bluffs, Iowa	August 10, 2004 10:30 a.m.
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Meeting Room D, Public Library 123 S. Linn St. Iowa City, Iowa	August 10, 2004 10:30 a.m.
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ELDER AFFAIRS DEPARTMENT[321] (Cont'd)

Monitoring, civil penalties, complaints and investigation for elder group homes, 26.1 to 26.10 IAB 7/21/04 ARC 3531B (ICN Network)	Room 105 Clinton Community College 1000 Lincoln Blvd. Clinton, Iowa	August 10, 2004 9:30 a.m.
	Public Library 300 S. Fillmore St. Osceola, Iowa	August 10, 2004 9:30 a.m.
	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 10, 2004 9:30 a.m.
Elder group homes, ch 29 IAB 7/21/04 ARC 3528B (ICN Network)	Room 105 Clinton Community College 1000 Lincoln Blvd. Clinton, Iowa	August 10, 2004 9:30 a.m.
	Public Library 300 S. Fillmore St. Osceola, Iowa	August 10, 2004 9:30 a.m.
	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 10, 2004 9:30 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, 22.1 to 22.3, 23.1, 23.3, 25.1 IAB 7/21/04 ARC 3515B	Conference Room 1 Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	August 23, 2004 1 p.m.
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**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DIVISION[605]**

Enhanced 911 telephone systems, amendments to ch 10 IAB 7/21/04 ARC 3519B	Division Conference Room Hoover State Office Bldg. Des Moines, Iowa	August 11, 2004 1 p.m.
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IOWA FINANCE AUTHORITY[265]

Qualified allocation plan for low- income housing tax credit program, 12.1, 12.2 IAB 8/4/04 ARC 3559B (ICN Network)	State Library, Third Floor Ola Babcock Miller Building Des Moines, Iowa	August 24, 2004 9 to 10:30 a.m.
	ICN Room, Public Library 424 Central Ave. Fort Dodge, Iowa	August 24, 2004 9 to 10:30 a.m.
	Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	August 24, 2004 9 to 10:30 a.m.

IOWA FINANCE AUTHORITY[265] (Cont'd)
(ICN Network)

Room 3, Continuing Education Bldg. Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa	August 24, 2004 9 to 10:30 a.m.
Room 211, Instructional Center Southwestern Community College – 1 101 W. Townline Rd. Creston, Iowa	August 24, 2004 9 to 10:30 a.m.
Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	August 24, 2004 9 to 10:30 a.m.
Marv O'Hare; Admin. Office Forum Building 2300 Chaney Dubuque, Iowa	August 24, 2004 9 to 10:30 a.m.
Room 153, Mason City High School 1700 Fourth SE Mason City, Iowa	August 24, 2004 9 to 10:30 a.m.
Videoconferencing & Training Center Indian Hills Community College – 7 651 Indian Hills Dr. Ottumwa, Iowa	August 24, 2004 9 to 10:30 a.m.
Room 22, CYO Bldg. Bishop Heelen Catholic High School 1021 Douglas St. Sioux City, Iowa	August 24, 2004 9 to 10:30 a.m.
ICN Room East High School 214 High St. Waterloo, Iowa	August 24, 2004 9 to 10:30 a.m.
Allocation plan for state housing trust fund program, 19.1 IAB 8/4/04 ARC 3558B (ICN Network)	State Library, Third Floor Ola Babcock Miller Building Des Moines, Iowa ICN Room, Public Library 424 Central Ave. Fort Dodge, Iowa Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa Room 3, Continuing Education Bldg. Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa Room 211, Instructional Center Southwestern Community College – 1 101 W. Townline Rd. Creston, Iowa
	August 24, 2004 11 a.m. to 12 noon August 24, 2004 11 a.m. to 12 noon

IOWA FINANCE AUTHORITY[265] (Cont'd)
(ICN Network)

	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	August 24, 2004 11 a.m. to 12 noon
	Marv O'Hare; Admin. Office Forum Building 2300 Chaney Dubuque, Iowa	August 24, 2004 11 a.m. to 12 noon
	Room 153, Mason City High School 1700 Fourth SE Mason City, Iowa	August 24, 2004 11 a.m. to 12 noon
	Videoconferencing & Training Center Indian Hills Community College – 7 651 Indian Hills Dr. Ottumwa, Iowa	August 24, 2004 11 a.m. to 12 noon
	Room 22, CYO Bldg. Bishop Heelen Catholic High School 1021 Douglas St. Sioux City, Iowa	August 24, 2004 11 a.m. to 12 noon
	ICN Room East High School 214 High St. Waterloo, Iowa	August 24, 2004 11 a.m. to 12 noon
Senior living revolving loan program, ch 20 IAB 8/4/04 ARC 3557B (ICN Network)	State Library, Third Floor Ola Babcock Miller Building Des Moines, Iowa	August 24, 2004 1 to 2 p.m.
	ICN Room, Public Library 424 Central Ave. Fort Dodge, Iowa	August 24, 2004 1 to 2 p.m.
	Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	August 24, 2004 1 to 2 p.m.
	Room 3, Continuing Education Bldg. Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa	August 24, 2004 1 to 2 p.m.
	Room 211, Instructional Center Southwestern Community College – 1 101 W. Townline Rd. Creston, Iowa	August 24, 2004 1 to 2 p.m.
	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	August 24, 2004 1 to 2 p.m.
	Marv O'Hare; Admin. Office Forum Building 2300 Chaney Dubuque, Iowa	August 24, 2004 1 to 2 p.m.

IOWA FINANCE AUTHORITY[265] (Cont'd)
(ICN Network)

	Room 153, Mason City High School 1700 Fourth SE Mason City, Iowa	August 24, 2004 1 to 2 p.m.
	Videoconferencing & Training Center Indian Hills Community College – 7 651 Indian Hills Dr. Ottumwa, Iowa	August 24, 2004 1 to 2 p.m.
	Room 22, CYO Bldg. Bishop Heelen Catholic High School 1021 Douglas St. Sioux City, Iowa	August 24, 2004 1 to 2 p.m.
	ICN Room East High School 214 High St. Waterloo, Iowa	August 24, 2004 1 to 2 p.m.
Home and community-based services revolving loan program, ch 21 IAB 8/4/04 ARC 3556B (ICN Network)	State Library, Third Floor Ola Babcock Miller Building Des Moines, Iowa	August 24, 2004 2 to 3 p.m.
	ICN Room, Public Library 424 Central Ave. Fort Dodge, Iowa	August 24, 2004 2 to 3 p.m.
	Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	August 24, 2004 2 to 3 p.m.
	Room 3, Continuing Education Bldg. Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa	August 24, 2004 2 to 3 p.m.
	Room 211, Instructional Center Southwestern Community College – 1 101 W. Townline Rd. Creston, Iowa	August 24, 2004 2 to 3 p.m.
	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	August 24, 2004 2 to 3 p.m.
	Marv O'Hare; Admin. Office Forum Building 2300 Chaney Dubuque, Iowa	August 24, 2004 2 to 3 p.m.
	Room 153, Mason City High School 1700 Fourth SE Mason City, Iowa	August 24, 2004 2 to 3 p.m.
	Videoconferencing & Training Center Indian Hills Community College – 7 651 Indian Hills Dr. Ottumwa, Iowa	August 24, 2004 2 to 3 p.m.

IOWA FINANCE AUTHORITY[265] (Cont'd)
(ICN Network)

Room 22, CYO Bldg. Bishop Heelen Catholic High School 1021 Douglas St. Sioux City, Iowa	August 24, 2004 2 to 3 p.m.
ICN Room East High School 214 High St. Waterloo, Iowa	August 24, 2004 2 to 3 p.m.

LABOR SERVICES DIVISION[875]

OSHA regulations, 10.20, 26.1 IAB 7/21/04 ARC 3511B	First Floor West Conference Room 1000 E. Grand Ave. Des Moines, Iowa	August 18, 2004 1:30 p.m.
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LOTTERY AUTHORITY, IOWA[531]

Winning ticket; monitor vending machines, 11.1(4), 14.4, 14.5(4), 14.19, 14.28(2) IAB 7/21/04 ARC 3505B (See also ARC 3506B)	2015 Grand Ave. Des Moines, Iowa	August 11, 2004 11 a.m. (If requested)
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MEDICAL EXAMINERS BOARD[653]

Fees, 8.4(1), 9.11(3), 9.13(1) IAB 8/4/04 ARC 3564B	Suite C 400 SW Eighth St. Des Moines, Iowa	August 24, 2004 3 p.m.
International medical school graduates, 9.3(1), 9.5(2), 9.7(2) IAB 8/4/04 ARC 3566B	Suite C 400 SW Eighth St. Des Moines, Iowa	August 24, 2004 3:15 p.m.

NURSING BOARD[655]

Licensure, 3.1, 3.7, 3.8, 4.7, 5.2 IAB 7/7/04 ARC 3470B	Des Moines West Room Holiday Inn Downtown 1050 Sixth Ave. Des Moines, Iowa	September 8, 2004 6:30 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Psychologists—licensure by endorsement, 240.10(5) IAB 7/21/04 ARC 3536B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 10, 2004 9 to 10 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

AIDS drug assistance program, 11.84 to 11.91 IAB 8/4/04 ARC 3571B	Room 513 Lucas State Office Bldg. Des Moines, Iowa	August 24, 2004 1 to 2 p.m.
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PUBLIC HEALTH DEPARTMENT[641] (Cont'd)

Fees for vital records, 96.4 IAB 8/4/04 ARC 3572B (ICN Network)	ICN Conference Room, Sixth Floor NW Lucas State Office Bldg. Des Moines, Iowa	August 24, 2004 1:30 to 3:30 p.m.
	Room 16, Iowa Central Comm. Coll. 916 N. Russell Storm Lake, Iowa	August 24, 2004 1:30 to 3:30 p.m.
	Room 157, Voc. Tech. Bldg. High School 501 E. Second Ottumwa, Iowa	August 24, 2004 1:30 to 3:30 p.m.
	Room 304, High School 2011 N. Eighth St. Red Oak, Iowa	August 24, 2004 1:30 to 3:30 p.m.
	North Fayette High School North Pine Street West Union, Iowa	August 24, 2004 1:30 to 3:30 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Minimum training standards for fire fighters, 54.100 to 54.104 IAB 7/7/04 ARC 3482B (ICN Network)	Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	August 5, 2004 10 a.m.
	Room 8, Bldg. 6, Ankeny Campus Des Moines Area Community College 2006 S. Ankeny Blvd. Ankeny, Iowa	August 9, 2004 6 to 8 p.m.
	Room 210, Scott Community College 500 Belmont Rd. Bettendorf, Iowa	August 9, 2004 6 to 8 p.m.
	Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. Cedar Rapids, Iowa	August 9, 2004 6 to 8 p.m.
	Looft Hall, Iowa Western Comm. Coll. 2700 College Rd. Council Bluffs, Iowa	August 9, 2004 6 to 8 p.m.
	Room 211, Instructional Center Southwestern Community College 1501 W. Townline Rd. Creston, Iowa	August 9, 2004 6 to 8 p.m.
	Room 818, Smith Wellness Center Iowa Lakes Community College 3200 College Dr. Emmetsburg, Iowa	August 9, 2004 6 to 8 p.m.
	Room 206, Library Iowa Central Community College 330 Avenue M Fort Dodge, Iowa	August 9, 2004 6 to 8 p.m.

PUBLIC SAFETY DEPARTMENT[661] (Cont'd)
(ICN Network)

	Room 806, Continuing Education Ctr. Iowa Valley Community College 3702 South Center St. Marshalltown, Iowa	August 9, 2004 6 to 8 p.m.
	Room 106, Activity Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	August 9, 2004 6 to 8 p.m.
	ICN Room 8, Video Conference Center Indian Hills Community College 651 Indian Hills Dr. Ottumwa, Iowa	August 9, 2004 6 to 8 p.m.
	Room 139, Northeast Iowa Comm. Coll. 10250 Sundown Rd. Peosta, Iowa	August 9, 2004 6 to 8 p.m.
	Room 402, Bldg. D Northwest Iowa Community College 603 W. Park St. Sheldon, Iowa	August 9, 2004 6 to 8 p.m.
	Room 925, Bldg. A Western Iowa Tech. Community College 4647 Stone Ave. Sioux City, Iowa	August 9, 2004 6 to 8 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	August 9, 2004 6 to 8 p.m.
	Room 503, North Campus, Trustee Hall Southeastern Community College 1500 W. Agency West Burlington, Iowa	August 9, 2004 6 to 8 p.m.
Fire fighter training and equipment funds; training facility funds, 55.104, 55.105, 55.301 IAB 7/7/04 ARC 3481B	Conference Room Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	August 5, 2004 9:30 a.m.
Volunteer emergency services provider death benefits—line-of-duty death, 59.1, 59.2 IAB 7/7/04 ARC 3480B (See also ARC 3479B)	Conference Room Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	August 5, 2004 9:45 a.m.
UTILITIES DIVISION[199]		
Revisions to level payment plan rules, 19.4(11), 20.4(12) IAB 7/7/04 ARC 3493B	Hearing Room 350 Maple St. Des Moines, Iowa	September 1, 2004 9 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Division[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 GENERAL SERVICES DEPARTMENT[401]
 HUMAN INVESTMENT COUNCIL[417]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]
INFORMATION TECHNOLOGY DEPARTMENT[471]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
VOLUNTEER SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

NOTICE—CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of June 30, 2004, is approximately \$12,722.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol, Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 3562B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 23, “Iowa Community Development Block Grant Program,” Iowa Administrative Code.

The proposed amendments establish wage guidelines for the career link program and clarify the method of distribution of unused funds.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 26, 2004. Interested persons may submit written or oral comments by contacting Roselyn McKie Wazny, Community Development Division, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4822.

A public hearing to receive comments about the proposed amendments will be held on August 26, 2004, at 1:30 p.m. at the above address in the first floor NW conference room. Individuals interested in providing comments at the hearing should contact Roselyn McKie Wazny by 4 p.m. on August 25, 2004, to be placed on the hearing agenda.

These amendments are intended to implement Iowa Code section 15.108(1)“a.”

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrules 23.4(7) and 23.4(8) as follows:
23.4(7) Reallocation. Any reserved funds not used for their specified purpose within the program year shall be reallocated to the competitive program for use through the water and sewer fund and community facilities and services fund according to the percentages set forth in subrule 23.4(6) in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to community or business needs.

23.4(8) Recaptured funds. Recaptured funds from all programs except the former quality jobs program shall be returned to the competitive program for use through the water and sewer fund and community facilities and services fund according to the percentages set forth in subrule 23.4(6). Funds recaptured from the former quality jobs program shall revert to the job creation, retention and enhancement fund. Recaptured funds shall be committed to open contracts. Preference for reimbursement shall be given to those contracts funded in prior years, with priority to those from the earliest year not yet closed out. Reimbursement will then proceed on a first-in, first-out basis. Recaptured funds shall be returned to the competitive program for use through the water and sewer fund and community facilities and services fund. Recaptured funds remaining at the end of a program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to a community or business need.

ITEM 2. Amend rule 261—23.9(15) as follows:

Amend the introductory paragraph as follows:

261—23.9(15) Requirements for the career link program. Projects funded through the career link program assist the working poor unemployed and underemployed to obtain the training and skills necessary to move into available higher-skill, higher-paying jobs.

Amend subrule 23.9(1) as follows:

23.9(1) Restrictions on applicants.

a. Identified positions shall pay a minimum of \$10 per hour plus benefits an average starting wage that meets or exceeds the lower of 100 percent of the average county wage or 100 percent of the average regional wage. IDED shall consider training proposals to fill occupations paying less than \$10 per hour if a wage progression to \$10 per hour shall be reached within 24 months of employment.

b. Applications shall include evidence of business participation in the curriculum design and evidence that a number of positions are available equal to or greater than the number of persons to be trained.

c. The proposed training period shall not exceed 12 months per individual participant. The project length shall not exceed 24 months.

d. Applicants may use awarded funds for training, transportation and child care costs. Up to 5 percent may be used for administration.

e. Projects shall be designed to target the working poor.

ARC 3548B

ARC 3579B

**HUMAN SERVICES
DEPARTMENT[441]**

**HUMAN SERVICES
DEPARTMENT[441]**

Notice of Intended Action

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 217.6, 235A.14(1), and 235B.5(1), the Department of Human Services proposes to amend Chapter 7, “Appeals and Hearings,” and Chapter 175, “Abuse of Children,” Iowa Administrative Code.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments remove provisions requiring a Department reconsideration of a child abuse report or a dependent adult abuse report when a subject of the report seeks correction or expungement of the abuse information. Currently the subject is required to exhaust this review process before the request is referred for an appeal hearing. The Department has received complaints about the length of time required to complete the review and appeal process. Under these amendments, a person who requests correction or expungement of abuse information will be advised to file a request for an appeal hearing under 441—Chapter 7.

These amendments increase by 7.3 percent the premiums assessed for recipients in the “Medicaid for employed people with disabilities” coverage group. Premiums are assessed on a sliding scale to recipients whose gross income exceeds 150 percent of the federal poverty guidelines. Iowa Code section 249A.3 requires the maximum premium to be commensurate with the cost of state employees’ group health insurance. These amendments bring the premium schedule in line with the changes in state employees’ insurance costs that took effect in January 2004.

The amendments also make technical changes to update organizational references and addresses in Chapter 175.

These amendments do not provide for waivers in specified situations because all recipients should be subject to the same premium collection activity based on similar income tests. However, recipients may request a waiver of this policy under rule 441—1.8(17A,217).

These amendments do not provide for waivers in specified situations because they benefit the persons affected by shortening the process for resolving disputes about the accuracy of abuse information and the amendments make technical changes. Individuals may request a waiver of these rules under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before August 25, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

Any interested person may make written comments on the proposed amendments on or before August 25, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3, subsection 2, paragraph “a.”

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3547B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

These amendments are intended to implement Iowa Code chapter 17A and sections 235A.19 and 235B.10.

The following amendments are proposed.

Amend subparagraph **75.1(39)“b”(1)** as follows:
(1) Premiums shall be assessed as follows:

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

INCOME OF THE ELIGIBLE INDIVIDUAL ABOVE:	MONTHLY PREMIUM:
150% of federal poverty level	\$22 24
174% of federal poverty level	\$42 45
198% of federal poverty level	\$62 67
222% of federal poverty level	\$81 87
246% of federal poverty level	\$101 108
270% of federal poverty level	\$121 130
294% of federal poverty level	\$141 151
318% of federal poverty level	\$161 173
342% of federal poverty level	\$180 193
366% of federal poverty level	\$200 215
390% of federal poverty level	\$221 237

HUMAN SERVICES DEPARTMENT[441](cont'd)

INCOME OF THE ELIGIBLE INDIVIDUAL ABOVE:	MONTHLY PREMIUM:
438% of federal poverty level	\$247 265
486% of federal poverty level	\$273 293
534% of federal poverty level	\$299 321
582% of federal poverty level	\$325 349
632% of federal poverty level	\$355 381

ARC 3580B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

These amendments establish a new Medicaid coverage group limited to the provision of family planning services. The Department has applied to the federal Centers for Medicare and Medicaid Services for a demonstration waiver under Section 1115(a) of the Social Security Act. The Secretary of the Department of Health and Human Services has the authority to grant a waiver of Medicaid eligibility requirements in a demonstration project to test new policies that are likely to assist in promoting the objectives of the Medicaid program.

The waiver requested by the Department would extend eligibility for Medicaid-funded family planning services to women who would otherwise not be Medicaid-eligible. The goal of the project is to reduce the number of unintended pregnancies in Iowa and the number of births paid for by the Iowa Medicaid program. These rules are being published for comment while the waiver request is under consideration and will be adopted only after the waiver is approved.

Under current policy, pregnant women with incomes at or below 200 percent of the federal poverty level are eligible for Medicaid during the pregnancy and for 60 days after the pregnancy ends. After the 60 days, women who do not qualify under the more restrictive guidelines of the Family Medical Assistance Program are no longer eligible for Medicaid.

Under the proposed waiver, eligibility for a woman who was a Medicaid recipient when her pregnancy ended would be extended for 12 months beyond the 60-day postpartum period for family planning services only. Any woman of childbearing age whose countable income is at or below 200 percent of the federal poverty level would also be able to apply for Medicaid family planning coverage.

Women eligible in this coverage group may receive all family planning services covered by the Iowa Medicaid program, but no other Medicaid-funded services. Family planning includes medically necessary services and supplies related to birth control and pregnancy prevention. Services include contraceptive management with a variety of methods,

patient education, counseling, and referral as needed to other social services and health care providers. Reimbursement for medical transportation will be available if a woman must pay to travel outside her community to obtain services.

These amendments do not provide for waivers in specified situations because they provide a benefit to women who will be served.

Any interested person may make written comments on the proposed amendments on or before August 25, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 116, subsection 8.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 441—75.1(249A) by adopting **new** subrule 75.1(41) as follows:

75.1(41) Women eligible for family planning services under demonstration waiver. Medical assistance for family planning services only shall be available to women as provided in this subrule.

a. Eligibility. The following are eligible for assistance under this coverage group:

(1) Women who were Medicaid recipients when their pregnancy ended and who are capable of bearing children but are not pregnant. Eligibility for these women extends for 12 consecutive months after the month when their 60-day postpartum period ends.

(2) Women who are of childbearing age, are capable of bearing children but are not pregnant, and have income that does not exceed 200 percent of the federal poverty level, as determined according to paragraph 75.1(41)"c."

b. Application.

(1) Women eligible under subparagraph 75.1(41)"a"(1) are not required to file an application for assistance under this coverage group. The department will automatically redetermine eligibility pursuant to rule 441—76.11(249A) upon loss of other Medicaid eligibility within 12 months after the month when the 60-day postpartum period ends.

(2) Women requesting assistance based on subparagraph 75.1(41)"a"(2) shall file an application as required in rule 441—76.1(249A).

c. Determining income eligibility. The department shall determine the countable income of a woman applying under subparagraph 75.1(41)"a"(2) as follows:

(1) Household size. The household size shall include the applicant or recipient, any dependent children as defined in 441—subrule 75.54(1) living in the same home as the applicant or recipient, and any spouse living in the same home as the applicant or recipient, except when a dependent child or spouse has elected to receive supplemental security income under Title XVI of the Social Security Act.

(2) Earned income. All earned income as defined in 441—subrule 75.57(2) that is received by a member of the household shall be counted except for the earnings of a child who is a full-time student as defined in 441—paragraph 75.54(1)"b."

(3) Unearned income. The following unearned income of all household members shall be counted:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. Unemployment compensation.
2. Child support.
3. Alimony.
4. Social security and railroad retirement benefits.
5. Worker's compensation and disability payments.
6. Benefits paid by the Veterans Administration to disabled members of the armed forces or survivors of deceased veterans.

(4) Deductions. Deductions from income shall be made for any payments made by household members for court-ordered child support, alimony, or spousal support to non-household members and as provided in 441—subrule 75.57(2).

(5) Disregard of changes. A woman found to be income-eligible upon application or annual redetermination of eligibility shall remain income-eligible for 12 months regardless of any change in income or household size.

d. Effective date. Assistance for family planning services under this coverage group shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. Notwithstanding 441—subrule 76.5(1), assistance shall not be available under this coverage group for any months preceding the month of application.

ITEM 2. Amend rule 441—76.1(249A) as follows:

Amend subrule **76.1(1)** by adopting new paragraph “**d**” as follows:

d. Women applying for medical assistance for family planning services under 441—subrule 75.1(41) may also apply at any Iowa Title X family planning clinic or any delegate agency as defined in rule 441—173.1(234) that provided family planning services as of July 1, 2004.

Amend subrule 76.1(2), introductory paragraph, as follows:

76.1(2) Date and method of filing application. An application is considered filed on the date an identifiable application, Form 470-0462, 470-0466 (Spanish), 470-2927, or 470-2927(S), is received and date-stamped:—(1) in any local office of the department, or (2) by a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided, or (3) by the third party administrator who has contracted with the department to administer the healthy and well kids in Iowa (HAWK-I) program as provided at 441—Chapter 86 place of filing specified in subrule 76.1(1).

ITEM 3. Amend rule 441—76.7(249A) as follows:

441—76.7(249A) Reinvestigation. Reinvestigation shall be made as often as circumstances indicate but in no instance shall the period of time between reinvestigations exceed 12 months.

76.7(1) The recipient shall supply, insofar as the recipient is able, additional information needed to establish eligibility within five working days from the date a written request is issued. The recipient shall give written permission for the release of information when the recipient is unable to furnish information needed to establish eligibility. Failure to supply the information or refusal to authorize the county office to secure information from other sources shall serve as a basis for cancellation of Medicaid.

76.7(2) Eligibility criteria for persons whose eligibility for Medicaid is related to the family medical assistance program shall be reviewed according to policies found in rule 441—75.52(249A).

76.7(3) Persons whose eligibility for Medicaid is related to supplemental security income shall complete Form 470-

2927, Health Services Application, as part of the reinvestigation process when requested to do so by the county office.

76.7(4) The review for foster children or children in subsidized adoption shall be completed on Form 470-2914, Foster Care and Subsidized Adoption Medicaid Review, according to the time schedule of the family medical assistance program or supplemental security income program for disabled children, as applicable.

76.7(5) *Women eligible for family planning services only shall complete Form 470-4091, Family Planning Medicaid Review, as part of the reinvestigation process. Form 470-4091 shall be issued at least 30 days before the end of the eligibility period. The woman must submit the completed review form before the end of the eligibility period to any department local office or location specified in paragraph 76.1(1)“d.” Women who fail to submit Form 470-4091 before the end of the eligibility period must reapply as directed in rule 441—76.1(249A).*

ARC 3545B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 2004 Iowa Acts, Senate File 2298, sections 119 and 143, the Department of Human Services proposes to amend Chapter 76, “Application and Investigation,” Iowa Administrative Code.

This amendment implements a health insurance data match program with insurance carriers. The purpose of the data match program is to match a list of insureds against the list of Medicaid recipients. Medicaid is the “payer of last resort” for health care costs. Medicaid recipients who have other health insurance coverage are required to use that coverage first before billing the Medicaid program. When the Department becomes aware of other coverage, Medicaid will not pay claims until the provider shows the results of billing the other carrier. This practice results in cost avoidance for the Medicaid program.

The amendment requires any insurance carrier providing a health benefit plan in Iowa to enter into an agreement with the Department to provide the data necessary to carry out the match and specify the terms of the agreement. Insurance carriers are to provide the data beginning September 1, 2004.

This amendment does not provide for waivers in specified situations because all health insurers should be required to provide the data necessary to enable the Department to match insureds against Medicaid recipients and identify third-party payers for Medicaid recipients.

Any interested person may make written comments on the proposed amendment on or before August 25, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 3546B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

This amendment is intended to implement Iowa Code section 249A.3, subsection 10, and 2004 Iowa Acts, Senate File 2298, section 119.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 3578B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to amend Chapter 95, "Collections," Iowa Administrative Code.

These amendments change the rules for pursuing an offset against federal income tax refunds and federal nontax payments to recover delinquent child support. The amendments:

- Modify the criteria for submitting assigned past-due support by removing the requirement that the support be delinquent for three months, in compliance with new federal regulations. Elimination of the three-month waiting period means less delay in submitting delinquent support for collection through federal offsets.

- Implement a federal option to combine amounts owed by the same obligor in more than one case to meet the dollar thresholds for federal offset of \$150 for delinquent support assigned to the government and \$500 for delinquent support due to families. This change will allow families and the government a better opportunity to secure delinquent support. Collection of past-due support secures funding for the Family Investment Program and support to families.

These amendments do not provide for waivers in specified situations because the Department is enforcing delinquent orders for support according to allowable criteria added to federal law. Other provisions of rule 441—95.7(252B) already provide opportunities for a person to appeal an offset or to request a review.

Any interested person may make written comments on the proposed amendments on or before August 25, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 252B.5.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or

at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

Amend rule 441—95.7(252B) as follows:

Amend subrule 95.7(1) as follows:

95.7(1) Amount of assigned support. If the delinquent support is assigned to the department, the amount of delinquent support shall be at least \$150, ~~and the support shall have been delinquent for three months~~ *calculated by combining the assigned delinquent support in all of the obligor's cases in which the assigned delinquent support is at least \$50.*

Amend subrule 95.7(2), introductory paragraph, as follows:

95.7(2) Amount of nonassigned support. If delinquent support is not assigned to the department, the claim shall be made if the amount of delinquent support is at least \$500, *calculated by combining the nonassigned delinquent support in all of the obligor's cases in which the nonassigned delinquent support is at least \$50.*

ARC 3552B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 58, "Nursing Facilities," Iowa Administrative Code.

The proposed amendment implements a change made to the admission procedures for nursing facilities, as required by 2004 Iowa Acts, Senate File 2298, section 226. The proposed amendment exempts the Iowa Veterans Home from the requirement that nursing facilities receiving reimbursements through the Medicaid program assist the Iowa Commission on Veterans Affairs in identifying residents eligible or potentially eligible for benefits through the federal Department of Veterans Affairs (VA).

The Department has determined that the proposed amendment will have no fiscal impact on any individual or regulated entity. Rather, adoption of the proposed amendment will reduce costs to the Iowa Veterans Home associated with the admission of new residents and identification of current residents who are or might be eligible for federal VA benefits. In addition, the proposed amendment does not contain a waiver provision as the exemption for the Iowa Veterans Home is specifically provided for by law.

The proposed amendment was presented to the State Board of Health for initial review at the Board's July 14, 2004, meeting.

Any interested person may make written suggestions or comments on the proposed amendment on or before August 24, 2004. Such written material should be directed to the Director, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083;

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

or faxed to (515)242-6863. E-mail may be sent to david.werning@dia.state.ia.us.

This amendment is intended to implement 2004 Iowa Acts, Senate File 2298, section 226.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **58.12(1)**, paragraph **"1,"** third unnumbered paragraph, as follows:

The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care *or to the admission of an individual to the Iowa Veterans Home.* (II,III)

ARC 3561B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 103, "Bingo," Iowa Administrative Code.

The proposed amendments implement changes made to the state's social and charitable gambling laws pursuant to 2004 Iowa Acts, Senate Files 2149 and 2249. The proposed amendments stipulate that animals cannot be awarded as prizes at social and charitable gambling events, including but not limited to concession stands at fairs. Additionally, the proposed amendments clarify the number of times bingo occasions may be conducted under a two-year qualified organization license, change the number of times jackpot games may be played, allow jackpot prize amounts to increase by \$200 per game with a maximum amount of not more than \$2,500 for the second jackpot prize, authorize bingo patrons to trade in cards, and provide for the predrawing of bingo numbers under certain circumstances.

The Department has determined that adoption of the proposed amendments will have no adverse fiscal impact on any individual or regulated entity. No waiver provision is contained in the proposed amendments as they confer a benefit upon the regulated entities, as contained in the enacting legislation.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 24, 2004. Such written material should be directed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or faxed to (515)242-6863. E-mail may be sent to david.werning@dia.state.ia.us.

These amendments are intended to implement 2004 Iowa Acts, Senate Files 2149 and 2249.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend the following definitions in rule **481—103.1(10A,99B)** as follows:

"Limited license" is a 14-day license issued only to a qualified organization. There are no limits on the number of games played or occasions held, *except that a bingo occasion may be conducted only once per each seven consecutive calendar days under this license.*

"Merchandise" prizes are tangible goods, scholarships, antique coins, airline tickets or similar items. Iowa lottery tickets are merchandise. *Animals are not merchandise and shall not be awarded as prizes.*

ITEM 2. Amend rule 481—103.2(10A,99B), introductory paragraph, as follows:

481—103.2(10A,99B) License. Licenses are issued for two years or 14 days. Licenses issued for 14 days are called limited licenses. *Under a 14-day license, a bingo occasion may be conducted only once per each seven consecutive calendar days of the period specified in the license.* Before any organization may conduct bingo games or occasions, an application must be approved by the department. The license shall be prominently displayed and is valid only at the gambling location named.

ITEM 3. Amend rule 481—103.3(99B), introductory paragraph, as follows:

481—103.3(99B) Bingo occasion. A qualified organization may conduct only three bingo occasions per week, but not more than 14 occasions per month, *under a two-year qualified organization license.* A week starts on Sunday and ends on Saturday. An occasion begins when the first ball is called and shall end no more than four hours later.

ITEM 4. Rescind subrule **103.4(2)**, paragraph **"d."**

ITEM 5. Rescind subrule **103.4(4)**, paragraph **"e,"** and adopt in lieu thereof the following **new** paragraph **"e"**:

e. Bingo games allowing for a trade-in of a bingo card during a bingo game for not more than fifty cents per trade-in may be allowed.

ITEM 6. Amend subrule **103.6(1)**, first unnumbered paragraph, as follows:

NOTE: Prizes of more than \$600 require the withholding of 5 percent ~~income~~ *withholding taxes, plus any applicable local option or school taxes*, for the state of Iowa. See 103.6(6), paragraph "g."

ITEM 7. Amend subrule 103.6(4) as follows:

103.6(4) Merchandise such as scholarships, airline tickets and other similar items awarded as prizes shall not be converted to cash by the donor or provider. Winning lottery tickets or shares awarded as prizes may be converted to cash pursuant to lottery rules and statutes. *An animal shall not be awarded as a prize for participating in a game or fair event.*

ITEM 8. Amend rule 481—103.6(99B) as follows:

Amend subrule 103.6(6) as follows:

103.6(6) ~~One~~ *jackpot game No more than two jackpot games* may be played during a 24-hour period as follows:

a. An organization is limited to ~~one~~ *two* ~~game~~ *games*.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

b. The jackpot starting prize shall not exceed \$300 *in cash or actual retail value of merchandise.*

c. The jackpot prize shall not increase more than \$100 ~~per occasion~~ \$200 *after each jackpot game.* The maximum prize is ~~\$800~~ shall not be greater than \$1,000 for the first jackpot bingo game and shall not be greater than \$2,500 for the second jackpot game.

d. The jackpot prize shall not decrease until it is won.

e. If a jackpot is not won in the specified number of calls, the game reverts to a regular game with a prize of \$100 or less.

f. ~~A jackpot game shall not begin during a session in which a jackpot has been won.~~ Each jackpot game shall begin again at no more than \$300.

g. Cash prizes over \$600 require the deduction of 5 percent withholding tax, plus any applicable local option or school tax. This tax is to be withheld by the organization conducting the game. The amount deducted shall be remitted to the state Iowa department of revenue and finance on behalf of the prize winner.

Amend the implementation sentence as follows:

This rule is intended to implement Iowa Code sections 99B.7(1), 99B.21, and 422.16 and 717D.2.

ITEM 9. Amend subrule **103.13(1)**, paragraph “e,” as follows:

e. A list of all games played including a description of each game, the cost to play each game, the number and category of bingo cards used for each game and the prize or prizes paid in each game. The summary shall also include the totals for the occasion of the gross receipts, prizes awarded and the jackpot prize amount amounts.

ITEM 10. Amend the forms in **481—Chapter 103** by striking the words “Inspections Division” and inserting the words “Social and Charitable Gambling Program.”

ARC 3559B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), the Iowa Finance Authority proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the current qualified allocation plan for the low-income housing tax credit program with the 2005 qualified allocation plan which is incorporated by reference in rule 12.1(16).

The qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the selection criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority and are available electronically on the Authority’s

Web site at www.ifahome.com. It is the Authority’s intent to incorporate the 2005 qualified allocation plan by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules. The qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.) Moreover, due to the competitive nature of the award of low-income housing tax credits, waiver could create unevenness in the application of the rules and could expose the Authority to liability.

Consistent with Executive Order Number 9, the Authority has considered the regulatory principles identified in this order and finds that the proposed amendments will serve an important public need in furthering the housing policy of the state to encourage the production and availability of affordable housing in Iowa.

The Authority will receive written comments on the proposed amendments until 5 p.m. on August 24, 2004. Comments may be addressed to Tim Waddell, Tax Credit Manager, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may also be faxed to Tim Waddell at (515)242-4957 or E-mailed to tim.waddell@ifa.state.ia.us.

The Authority will hold a public hearing on August 24, 2004, to receive public comments on these amendments. The public hearing will be held over the Iowa Communications Network (ICN) from 9 to 10:30 a.m. with the originating site at the Iowa State Library, Ola Babcock Miller Building, 3rd Floor, East 12th and Grand, Des Moines, Iowa; telephone (515)281-4316.

The following are the ten remote ICN sites where members of the public may attend the public hearing and make comments on these amendments:

Fort Dodge
Fort Dodge Public Library
424 Central Avenue
Fort Dodge, IA 50501
(515)573-8167
Room Location: ICN Room

Cedar Rapids
Department of Human Services
411 3rd Street SE
Cedar Rapids, IA 52401
(319)892-6700
Room Location: Fifth Floor,
Room 550

Council Bluffs
Iowa Western Comm. College - 3
2700 College Road
Council Bluffs, IA 51502
(712)325-3200
Room Location: Continuing Ed.
Bldg., Room 3

Creston
Southwestern Comm. College - 1
1501 West Townline Road
Creston, IA 50801
(641)782-7081
Room Location: Instructional
Center, Room 211

Davenport
Kimberly Center
1002 W. Kimberly
Davenport, IA 52806
(563)386-5840
Room Location: Room 119 (use
west front door)

Dubuque
Dubuque Community School
District - Forum
2300 Chaney
Dubuque, IA 52001
(563)588-5100
Room Location: Marv O’Hare;
Admin. Office; Forum Building

Mason City
Mason City High School
1700 Fourth SE
Mason City, IA 50401
(641)423-4400
Room Location: Room 153

Ottumwa
Indian Hills Comm. College - 7
651 Indian Hills Drive
Ottumwa, IA 52501
(641)683-5228
Room Location: Video-
conferencing & Training Center

Sioux City
Bishop Heelen Catholic High
School
1021 Douglas Street
Sioux City, IA 51105
(712)252-0573
Room Location: CYO Building,
Room 22

Waterloo
East High School
214 High Street
Waterloo, IA 50703
(319)291-4829
Room Location: ICN Room (use
outside entrance off Barclay)

IOWA FINANCE AUTHORITY[265](cont'd)

The Authority anticipates that it may make changes to the 2005 qualified allocation plan based on comments received from the public.

These amendments are intended to implement Iowa Code sections 16.4(3), 16.52, 17A.12, and 17A.16 and IRC Section 42.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2004 2005 Qualified Allocation Plan effective ~~October 8, 2003~~ *November 3, 2004*, shall be the qualified allocation plan for the allocation of ~~2004 2005~~ low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ITEM 2. Amend rule 265—12.2(16) as follows:

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.ifahome.com>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference IRC Section 42 and the regulations in effect as of ~~October 8, 2003~~ *November 3, 2004*. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site. Copies are available upon request at no charge from the authority.

ARC 3558B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17) and Iowa Code Supplement section 16.181, the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 19, “State Housing Trust Fund,” Iowa Administrative Code.

This proposed amendment replaces the current allocation plan for the state housing trust fund with the 2005 allocation plan. Through the State Housing Trust Fund, the Authority seeks to further its mission with respect to affordable housing. The plan outlines the application procedure, program guidelines, and other necessary requirements of the State Housing Trust Fund. The amendment proposes to adopt the

2005 trust fund allocation plan, which plan is incorporated by reference in rule 19.1(16).

The trust fund allocation plan sets forth the purpose of the State Housing Trust Fund program, the administrative information required for participation in the program, the threshold criteria, the selection criteria and other applicable requirements. Copies of the trust fund allocation plan are available upon request from the Authority and are available electronically on the Authority's Web site. The address for the Authority's Web site is www.ifahome.com. It is the Authority's intent to incorporate the 2005 trust fund allocation plan by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed plan until 5 p.m. on August 24, 2004. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Donna Davis at (515)242-4957. Comments may be E-mailed to Donna Davis at donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515)242-4990.

The Authority will hold a public hearing on August 24, 2004, to receive public comments on this amendment. The public hearing will be held over the Iowa Communications Network (ICN) from 11 a.m. to 12 noon with the originating site at the Iowa State Library, Ola Babcock Miller Building, Third Floor, East 12th and Grand, Des Moines, Iowa; telephone (515)281-4316.

The following are the ten remote ICN sites where members of the public may attend the public hearing and make comments on this amendment:

Fort Dodge Fort Dodge Public Library 424 Central Avenue Fort Dodge, IA 50501 (515)573-8167 Room Location: ICN Room	Dubuque Dubuque Community School District - Forum 2300 Chaney Dubuque, IA 52001 (563)588-5100 Room Location: Marv O'Hare; Admin. Office; Forum Building
Cedar Rapids Department of Human Services 411 3rd Street SE Cedar Rapids, IA 52401 (319)892-6700 Room Location: Fifth Floor, Room 550	Mason City Mason City High School 1700 Fourth SE Mason City, IA 50401 (641)423-4400 Room Location: Room 153
Council Bluffs Iowa Western Comm. College - 3 2700 College Road Council Bluffs, IA 51502 (712)325-3200 Room Location: Continuing Ed. Bldg., Room 3	Ottumwa Indian Hills Comm. College - 7 651 Indian Hills Drive Ottumwa, IA 52501 (641)683-5228 Room Location: Video- conferencing & Training Center
Creston Southwestern Comm. College - 1 1501 West Townline Road Creston, IA 50801 (641)782-7081 Room Location: Instructional Center, Room 211	Sioux City Bishop Heelen Catholic High School 1021 Douglas Street Sioux City, IA 51105 (712)252-0573 Room Location: CYO Building, Room 22
Davenport Kimberly Center 1002 W. Kimberly Davenport, IA 52806 (563)386-5840 Room Location: Room 119 (use west front door)	Waterloo East High School 214 High Street Waterloo, IA 50703 (319)291-4829 Room Location: ICN Room (use outside entrance off Barclay)

IOWA FINANCE AUTHORITY[265](cont'd)

The Authority anticipates that it may make changes to the 2005 trust fund allocation plan based on comments received from the public.

This amendment is intended to implement Iowa Code section 16.5(17) and Iowa Code Supplement section 16.181.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 265—19.1(16) as follows:

265—19.1(16) Trust fund allocation plan. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund 2004 2005 Allocation Plan, effective ~~December 31, 2003~~ *November 3, 2004*, shall be the allocation plan for the distribution of funds held within the state housing trust fund established in ~~2003 Iowa Acts, Senate File 458, section 404~~ *Iowa Code Supplement section 16.181*. The trust fund allocation plan includes the plan, application and application instructions. The trust fund allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ARC 3557B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17) and 2004 Iowa Acts, Senate File 2298, section 170, the Iowa Finance Authority hereby gives Notice of Intended Action to adopt a new Chapter 20, “Senior Living Revolving Loan Program,” Iowa Administrative Code.

This amendment proposes a new chapter concerning the senior living revolving loan program operated by the Authority. Through the senior living revolving loan program, the Authority seeks to assist in the development of affordable assisted living and service-enriched affordable housing for seniors and persons with disabilities. The rules outline the purpose, application procedure, program guidelines, and other necessary requirements of the senior living revolving loan program.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed rules until 5 p.m. on August 24, 2004. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Donna Davis at (515)242-4957 or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515) 242-4990.

The Authority will hold a public hearing on August 24, 2004, to receive public comments on this amendment. The public hearing will be held over the Iowa Communications Network (ICN) from 1 to 2 p.m. with the originating site at the Iowa State Library, Ola Babcock Miller Building, Third Floor, East 12th and Grand, Des Moines, Iowa, (515)281-4316.

The following are the ten remote ICN sites where members of the public may attend the public hearing and make comments on this amendment:

Fort Dodge
Fort Dodge Public Library
424 Central Avenue
Fort Dodge, IA 50501
(515)573-8167
Room Location: ICN Room

Cedar Rapids
Department of Human Services
411 3rd Street SE
Cedar Rapids, IA 52401
(319)892-6700
Room Location: Fifth Floor,
Room 550

Council Bluffs
Iowa Western Comm. College - 3
2700 College Road
Council Bluffs, IA 51502
(712)325-3200
Room Location: Continuing Ed.
Bldg., Room 3

Creston
Southwestern Comm. College - 1
1501 West Townline Road
Creston, IA 50801
(641)782-7081
Room Location: Instructional
Center, Room 211

Davenport
Kimberly Center
1002 W. Kimberly
Davenport, IA 52806
(563)386-5840
Room Location: Room 119 (use
west front door)

Dubuque
Dubuque Community School
District - Forum
2300 Chaney
Dubuque, IA 52001
(563)588-5100
Room Location: Marv O'Hare;
Admin. Office; Forum Building

Mason City
Mason City High School
1700 Fourth SE
Mason City, IA 50401
(641)423-4400
Room Location: Room 153

Ottumwa
Indian Hills Comm. College - 7
651 Indian Hills Drive
Ottumwa, IA 52501
(641)683-5228
Room Location: Video-
conferencing & Training Center

Sioux City
Bishop Heelen Catholic High
School
1021 Douglas Street
Sioux City, IA 51105
(712)252-0573
Room Location: CYO Building,
Room 22

Waterloo
East High School
214 High Street
Waterloo, IA 50703
(319)291-4829
Room Location: ICN Room (use
outside entrance off Barclay)

The Authority anticipates that it may make changes to these rules based on comments received from the public.

These rules are intended to implement Iowa Code section 16.5(17) and 2004 Iowa Acts, Senate File 2298, section 170.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** chapter:

CHAPTER 20

SENIOR LIVING REVOLVING LOAN PROGRAM

265—20.1(16) Purpose. Through its senior living revolving loan program (program), the authority seeks to assist in the development of affordable assisted living and service-enriched affordable housing for seniors and persons with disabilities. This chapter implements 2004 Iowa Acts, Senate File 2298, section 170, which adds Iowa Code section 16.182 to the authority's enabling statute and furthers the goal of the senior living program as specified in Iowa Code section 249H.2.

IOWA FINANCE AUTHORITY[265](cont'd)

265—20.2(16) Priority of loan awards. It is the authority's intent to award loans under the program to those applicants that meet all of the requirements of this chapter and satisfy all threshold and underwriting requirements of the applicable qualified allocation plan adopted by the authority pursuant to 265 IAC 12.1(16). The authority intends to award the available funds under this program each year if applicants meet all applicable requirements; provided, however, that the authority may allocate funds available between affordable assisted living and service-enriched housing in the manner it deems most appropriate. For example, the authority may choose to allocate 80 percent of available funds under the program to affordable assisted living and 20 percent to service-enriched housing. The authority will announce its expected allocation of funds prior to each tax credit application deadline. To the extent that sufficient funds are not available to fully fund all applications, taking into consideration the authority's allocation of funds as described above, loans under this program will be funded in the following order of priority:

1. Applicants awarded tax credits under the affordable assisted living set-aside;
2. Applicants awarded tax credits under the service-enriched set-aside; and
3. Applicants awarded tax credits outside of a set-aside. Applicants within a set-aside will compete based on points awarded under the qualified allocation plan.

265—20.3(16) Application process. Applications will be reviewed as part of an annual competition. Applications must be submitted in conjunction with the applicant's application for low-income housing tax credits, as set forth in the applicable qualified allocation plan. Once funds have been allocated, the authority will not accept for review any applications seeking funding until the next low-income housing tax credit application deadline. Applications for assistance under this program must be made on forms and in the manner provided by the authority. Inquiries with respect to this program should be made to those persons identified on the authority's Web site at www.ifahome.com as contacts for this program.

265—20.4(16) Program guidelines. For-profit and non-profit sponsors are eligible to apply for assistance under this program based on the following program guidelines:

20.4(1) Projects eligible for assistance must meet the following criteria:

- a. Projects must be developed using low-income housing tax credits.
- b. Applicants must satisfy all of the requirements of the applicable qualified allocation plan, including the plan, application and application instructions, all applicable attachments and exhibits, and applicable provisions of the Internal Revenue Code and the accompanying Treasury regulations.
- c. Assistance provided under this program must enable the project to maintain financial feasibility and affordability for at least the term of the assistance.
- d. Maintenance and debt service reserve funds must be adequately funded, as determined by the authority in its sole discretion.

20.4(2) The following types of activities are eligible for assistance:

- a. Acquisition and rehabilitation.
- b. New construction.
- c. Such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for this program.

20.4(3) Assistance will be provided upon the following terms and conditions:

a. Generally, the minimum loan amount is \$100,000, and the maximum loan amount is \$2,000,000. The maximum loan term and amortization period are each 20 years.

b. The debt service ratio must be at least 1.25:1, as calculated by the authority.

c. Interest rates will be set by the authority, in its sole discretion, at or below the applicable federal rate in effect at the time of closing.

d. Loans shall be secured by a first mortgage. Construction financing may be awarded to projects.

e. Recipients of assistance must agree to observe several covenants and restrictions, including but not limited to recorded affordability and transfer restrictions, all in accordance with such loan and mortgage documents as may be required by the authority under this program.

f. A Title Guaranty Certificate protecting the authority's interest is required on all loans, unless specifically waived by the authority, in its sole discretion.

g. Recipients must execute such documents and instruments and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

20.4(4) Loan fees.

a. Loan fees are as follows:

(1) Commitment fee (construction period) – 1.0 percent of loan amount.

(2) Commitment fee (permanent loan) – 2.0 percent of loan amount.

(3) Inspection fee – 0.5 percent of loan amount.

b. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

265—20.5(16) Authority analysis of applications. Authority staff will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that, because of the complex nature of each transaction and the particular sets of circumstances attributable to each particular application/transaction, the terms and conditions of loans will vary from project to project. The authority will make available its general operating procedures and guidelines for this program, as such may be revised from time to time.

265—20.6(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

265—20.7(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.

These rules are intended to implement Iowa Code section 16.5(17) and 2004 Iowa Acts, Senate File 2298, section 170.

ARC 3556B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(17) and 2004 Iowa Acts, Senate File 2298, section 171, the Iowa Finance Authority hereby gives Notice of Intended Action to adopt a new Chapter 21, "Home and Community-Based Services Revolving Loan Program," Iowa Administrative Code.

This amendment proposes a new chapter concerning the home and community-based services revolving loan program operated by the Authority. Through the home and community-based services revolving loan program, the Authority seeks to assist in the development and expansion of three specific community-based services (adult day services, respite services, and congregate meals) that will allow older persons of low income to remain in their homes. The rules outline the purpose, application procedure, program guidelines, and other necessary requirements of the home and community-based services revolving loan program.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed rules until 5 p.m. on August 24, 2004. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Donna Davis at (515)242-4957 or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515) 242-4990.

The Authority will hold a public hearing on August 24, 2004, to receive public comments on this amendment. The public hearing will be held over the Iowa Communications Network (ICN) from 2 to 3 p.m. with the originating site at the Iowa State Library, Ola Babcock Miller Building, Third Floor, East 12th and Grand, Des Moines, Iowa, (515)281-4316.

The following are the ten remote ICN sites where members of the public may attend the public hearing and make comments on this amendment:

Fort Dodge
Fort Dodge Public Library
424 Central Avenue
Fort Dodge, IA 50501
(515)573-8167
Room Location: ICN Room

Cedar Rapids
Department of Human Services
411 3rd Street SE
Cedar Rapids, IA 52401
(319)892-6700
Room Location: Fifth Floor,
Room 550

Dubuque
Dubuque Community School
District - Forum
2300 Chaney
Dubuque, IA 52001
(563)588-5100
Room Location: Marv O'Hare;
Admin. Office: Forum Building

Mason City
Mason City High School
1700 Fourth SE
Mason City, IA 50401
(641)423-4400
Room Location: Room 153

Council Bluffs
Iowa Western Comm. College - 3
2700 College Road
Council Bluffs, IA 51502
(712)325-3200
Room Location: Continuing Ed.
Bldg., Room 3

Creston
Southwestern Comm. College - 1
1501 West Townline Road
Creston, IA 50801
(641)782-7081
Room Location: Instructional
Center, Room 211

Davenport
Kimberly Center
1002 W. Kimberly
Davenport, IA 52806
(563)386-5840
Room Location: Room 119 (use
west front door)

Ottumwa
Indian Hills Comm. College - 7
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Ottumwa, IA 52501
(641)683-5228
Room Location: Video-
conferencing & Training Center

Sioux City
Bishop Heelen Catholic High
School
1021 Douglas Street
Sioux City, IA 51105
(712)252-0573
Room Location: CYO Building,
Room 22

Waterloo
East High School
214 High Street
Waterloo, IA 50703
(319)291-4829
Room Location: ICN Room (use
outside entrance off Barclay)

The Authority anticipates that it may make changes to these rules based on comments received from the public.

These rules are intended to implement Iowa Code section 16.5(17) and 2004 Iowa Acts, Senate File 2298, section 171.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** chapter:

CHAPTER 21 HOME AND COMMUNITY-BASED SERVICES REVOLVING LOAN PROGRAM

265—21.1(16) Purpose. Through its home and community-based services revolving loan program (program), the authority seeks to assist in the development and expansion of three specific community-based services (adult day services, respite services, and congregate meals) that will allow older persons of low income to remain in their homes. This chapter implements 2004 Iowa Acts, Senate File 2298, section 171, which adds Iowa Code section 16.183 to the authority's enabling statute, and furthers the goals specified in Iowa Code section 231.3.

265—21.2(16) Available funds. The authority anticipates that it will, at least annually, publicize the approximate amount of funds available under this program for the applicable fiscal year on the authority's Web site at www.ifahome.com. Any unallocated or recovered funds, or payments of interest and principal, or any combination thereof, may be awarded or may be carried over to the next year's cycle of loans at the discretion of the authority.

265—21.3(16) Intent of the authority. It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this program, and to allow discretion and flexibility to be used by the authority in its analysis and awarding of assistance under this program. It is the position of the authority that such discretion and flexibility are essential to structuring transactions that will serve to develop and expand facilities and infrastructure that provide adult day services, respite services, and congregate meals that address the needs of persons with low incomes in a manner that best serves the citizens of the state.

IOWA FINANCE AUTHORITY[265](cont'd)

265—21.4(16) Application procedure. Applications for assistance under this program must be made on forms and in the manner provided by the authority. Inquiries with respect to this program should be made to those persons identified on the authority's Web site as contacts for this program. Once contacted with an inquiry, the authority will send an application package to the potential applicant. In the event it becomes necessary to amend the application, the authority will post the amended version of the application on its Web site. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis, beginning on or after December 6, 2004. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to develop and expand facilities and infrastructure that provide adult day services, respite services, and congregate meals that address the needs of persons with low incomes in the state.

265—21.5(16) Program guidelines. For-profit and non-profit sponsors are eligible to apply for assistance under this program based on the following program guidelines:

21.5(1) Projects eligible for assistance must meet the following criteria:

- a. In the case of adult day services, the project must:
 - (1) Set aside 40 percent of the admissions for those with incomes at or below 40 percent of area median income (AMI) for the county in which the property is located;
 - (2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay;
 - (3) Accept third-party reimbursement, including Medicaid 1915(c) waiver(s), and meet the standards set forth in 441—Chapter 77; and
 - (4) Become and remain certified as an adult day services provider, as set forth in 321—Chapter 24.
- b. In the case of respite services, the project must:
 - (1) Provide services to underserved people in the community;
 - (2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay;
 - (3) Accept third-party reimbursement, including Medicaid 1915(c) waiver(s), and meet the standards set forth in 441—Chapter 77; and
 - (4) Meet all local, state and federal requirements subject to health care limits of the proposed setting.
- c. In the case of congregate meals, the project must establish and maintain a contract with the area agency on aging to provide congregate meals under the standards established for such a program under the federal Older Americans Act.
- d. A demonstrated market need for the project must exist and the project must be in a good location, both as determined by the authority in its sole discretion.
- e. Assistance provided under this program must enable the project to maintain financial feasibility and affordability for at least the term of the loan.
- f. Maintenance and debt service reserve funds must be adequately funded, as determined by the authority in its sole discretion.
- g. Programs shall comply with all applicable federal, state and local laws and rules related to the specified service or services offered by the sponsor.

21.5(2) The following types of activities are eligible for assistance:

- a. Acquisition and rehabilitation.
- b. New construction.
- c. Rehabilitation to expand a current program.
- d. Such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for this program.

21.5(3) Assistance will be provided upon the following terms and conditions:

- a. Generally, the minimum loan amount is \$50,000, and the maximum loan amount is \$1,000,000. The maximum loan term and amortization period are each 20 years.
- b. The debt service ratio must be at least 1.30:1, as calculated by the authority. In addition, the loan-to-value ratio of the project, as calculated by the authority, will be considered. Notwithstanding the above, the authority may, in its sole discretion, accept a lower debt service ratio based on the final underwriting of the project.
- c. Interest rates will be set by the authority, in its sole discretion, as close to market as the financial capacity of the project will allow.
- d. Loans shall be secured by a first mortgage; provided, however, that in limited cases the authority may consider a subordinate mortgage when the first mortgage is held by another entity.
- e. Recipients of assistance must agree to observe several covenants and restrictions, including but not limited to recorded affordability and transfer restrictions, all in accordance with such loan and mortgage documents as may be required by the authority under this program.
- f. Each project receiving assistance must demonstrate a local contributing effort, as such term is used in Iowa Code section 16.4, of not less than 1 percent of the total loan amount.
- g. Recipients shall execute such documents and instruments and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

21.5(4) Loan fees.

- a. Loan fees are as follows:
 - (1) Commitment fee (construction period) – 1.0 percent of the loan amount.
 - (2) Commitment fee (permanent loan) – 2.0 percent of loan amount.
 - (3) Inspection fee – 0.5 percent of construction loan amount.
 - (4) Application fee – 0.3 percent of total loan amount requested, payable with the submission of loan application.
- b. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

265—21.6(16) Authority analysis of applications. Authority staff, in cooperation with the department of elder affairs staff, will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that, because of the complex nature of each transaction, and the particular sets of circumstances attributable to each particular application/transaction, the terms and conditions of loans may vary from project to project. The authority will make available its general operating procedures and guidelines for this program.

IOWA FINANCE AUTHORITY[265](cont'd)

265—21.7(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

265—21.8(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.

These rules are intended to implement Iowa Code section 16.5(17) and 2004 Iowa Acts, Senate File 2298, section 171.

ARC 3564B

MEDICAL EXAMINERS BOARD[653]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 8, "Fees," and Chapter 9, "Permanent Physician Licensure," Iowa Administrative Code.

The Board approved the proposed amendments to Chapters 8 and 9 during a telephone conference call held on July 15, 2004.

The proposed amendments increase the renewal fee by \$75 for physicians who renew licenses using a paper application rather than on-line renewal, and decrease the reinstatement penalty by \$50 for a reinstatement within one year of the license's becoming inactive.

Any interested person may present written comments on these proposed amendments not later than 4:30 p.m. on August 24, 2004. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or E-mail at ann.mowery@iowa.gov.

There will be a public hearing on August 24, 2004, at 3 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners' office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code section 147.80.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **8.4(1)**, paragraphs "c" and "g," as follows:

c. Renewal of an active license to practice, \$350 \$425 if renewal is made via paper application or \$312.50 if renewal is made via on-line application, per biennial period or a prorated portion thereof if the current license was issued for a pe-

riod of less than 24 months. A convenience fee will be charged for on-line renewal.

g. Reinstatement of a license within one year of becoming inactive, the renewal fee for the most recent license period plus a \$175 \$125 reinstatement penalty. The renewal fee is \$350 \$425 except when the license in the most recent license period had been granted for less than 24 months; in that case, the renewal fee is prorated according to the date of issuance and the physician's month and year of birth.

ITEM 2. Amend subrule **9.11(3)**, paragraph "a," as follows:

a. The renewal fee is \$350 \$425 if the renewal is made via paper application or \$312.50 if the renewal is made via on-line application.

ITEM 3. Amend subrule **9.13(1)**, paragraph "a," as follows:

a. Fees for reinstatement within one year of the license's becoming inactive. The fee shall include the renewal fee for the most recent license period plus a \$175 \$125 reinstatement penalty. The renewal fee is \$350 \$425 except when the license in the most recent license period had been granted for less than 24 months; in that case, the renewal fee is prorated according to the date of issuance and the physician's month and year of birth.

ARC 3566B

MEDICAL EXAMINERS BOARD[653]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3 and chapter 148, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 9, "Permanent Physician Licensure," Iowa Administrative Code.

The Board approved proposed amendments to Chapter 9 during a regularly scheduled meeting held on July 8, 2004.

The proposed amendments announce that beginning July 1, 2006, an applicant for physician licensure who is a graduate of an international medical school and holder of an educational commission for foreign medical graduates (ECFMG) certificate shall submit satisfactory evidence of successful completion of two years of postgraduate training as specified in Iowa Code section 148.3, subsection 3, as amended by 2004 Iowa Acts, House File 2555.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on August 24, 2004. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or by E-mail to ann.mowery@iowa.gov.

There will be a public hearing on August 24, 2004, at 3:15 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of

MEDICAL EXAMINERS BOARD[653](cont'd)

Medical Examiners office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code section 148.3(3) as amended by 2004 Iowa Acts, House File 2555.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **9.3(1)“d,”** introductory paragraph, and subparagraph **(1)**, as follows:

d. Have successfully completed one year of resident training in a hospital-affiliated program approved by the board at the time the applicant was enrolled in the program. *Beginning July 1, 2006, an applicant who is a graduate of a foreign medical school shall have successfully completed 24 months of such training.*

(1) *For those required to have 12 months of training, The the program shall have been 12 months of progressive training in not more than two specialties and in not more than two programs approved for resident training by the board. Beginning July 1, 2006, for those required to have 24 months of training, the program shall have been 24 months of progressive training in not more than two specialties and in not more than two programs approved for resident training by the board.*

ITEM 2. Amend subrule **9.5(2)**, paragraph **“i,”** as follows:

i. Documentation of successful completion of one year of resident training approved by the board as specified in paragraph 9.3(1)“d.” An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

ITEM 3. Amend subrule **9.7(2)**, paragraph **“c,”** as follows:

c. Once the reactivation period expires, an applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials. *Beginning July 1, 2006, an applicant who holds a valid ECFMG certificate and who reapplies shall submit evidence of having successfully completed two years of postgraduate training as specified in paragraph 9.3(1)“d.”*

ARC 3571B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 141A.2, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 11, “Acquired Immune Deficiency Syndrome (AIDS),” Iowa Administrative Code.

This amendment adds a new section to Chapter 11 regarding the AIDS Drug Assistance Program. This state-administered program provides certain HIV/AIDS medications to eligible low-income individuals if adequate funding is available. The rules under the new heading address the eligibility requirements and the enrollment process for this program. Also included are guidance on the establishment of a waiting list for the program, when needed, and the process to appeal a decision of the Department to approve or deny an application or to place an applicant on the waiting list.

Any interested person may make written suggestions or comments on the proposed amendment on or before August 24, 2004. Such written materials should be directed to Holly Hanson, Bureau of Disease Prevention and Immunization, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-4570; E-mail hhanson@idph.state.ia.us.

Also, there will be a public hearing on August 24, 2004, from 1 to 2 p.m. in Room 513, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules. Any person who intends to attend the public hearing and has special requirements such as hearing or mobility impairments should contact the Department of Public Health and advise of specific needs.

This amendment is intended to implement Iowa Code chapter 141A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend 641—Chapter 11 by adding the following heading and **new** rules 641—11.84(141A) to 641—11.91(141A) under that heading:

AIDS DRUG ASSISTANCE PROGRAM

641—11.84(141A) Definitions. For purposes of these rules, the following definitions shall apply:

“ADAP advisory committee” means the committee appointed by the bureau of disease prevention and immunization to provide advice and technical assistance to the department regarding the ADAP program.

“AIDS” means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

“AIDS drug assistance program” or “ADAP” means the AIDS drug assistance program administered by the bureau of disease prevention and immunization within the department.

“Bureau” means the bureau of disease prevention and immunization within the department.

“Department” means the Iowa department of public health.

“Director” means the director of the Iowa department of public health.

“Family income” means the combined gross earned and unearned income of all individuals within the family unit.

“Family unit” means a group of individuals residing together who are related by birth, marriage, or adoption; or an individual who does not reside with any other individual to whom the individual is related by birth, marriage, or adoption.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“HIV” means the human immunodeficiency virus identified as the causative agent of AIDS.

“Iowa AIDS ADAP formulary” means the list of drugs approved for use in the ADAP program by the bureau upon recommendation of the ADAP advisory committee.

641—11.85(141A) Purpose. The AIDS drug assistance program is a state-administered program that provides certain HIV/AIDS medications to eligible low-income individuals diagnosed with HIV or AIDS if adequate funding is available for administration of the program. The AIDS drug assistance program is authorized under Title II of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act. The AIDS drug assistance program will cease to provide medications when available funding is exhausted or terminated. ADAP is not an entitlement program and does not create a right to assistance.

641—11.86(141A) Eligibility requirements.

11.86(1) An applicant is eligible to participate in ADAP if the applicant:

- a. Applies for enrollment in ADAP on a form provided by the department;
- b. Has no or inadequate health insurance to cover the cost of the drugs that are or may become available from ADAP;
- c. Is not fully covered under the Iowa Medicaid program;
- d. Has an annual gross family income that is less than or equal to 200 percent of the poverty level as determined by the most recent federal poverty guidelines published annually by the United States Department of Health and Human Services for the size of the household;
- e. Has liquid assets, not including major residence, household furnishings, and one vehicle, valued at less than \$10,000;
- f. Has a medical diagnosis of HIV infection or AIDS or is an unborn infant or an infant under 18 months of age who has an HIV-infected mother; and
- g. Is a resident of Iowa.

11.86(2) For purposes of paragraph 11.86(1)“d,” an individual may report annual family income by using actual family income for the most recent 12 months or by using estimated annual family income determined by multiplying the current monthly family income by 12.

641—11.87(141A) Enrollment process.

11.87(1) The department shall review each completed application and shall determine enrollment based upon applicant eligibility, the date on which the application was completed, and the availability of funds. When the department determines that an applicant is eligible for enrollment, the applicant may be enrolled for 12 months commencing with the date of the determination or may be enrolled for a shorter time period at the discretion of the department.

11.87(2) An applicant shall provide the department with all requested information and shall execute any consent forms or releases of information necessary for the department to verify eligibility.

11.87(3) The department shall review eligibility annually after enrollment unless one of the following events occurs within the 12-month period to end eligibility:

- a. The enrolled individual dies;
- b. The enrolled individual is determined eligible and enrolled to fully receive medical services through a third-party payer;

c. The enrolled individual’s annual family income increases to an amount above 200 percent of the poverty level; or

d. The enrolled individual establishes residency outside the state of Iowa.

11.87(4) An applicant must submit a renewal application form on an annual basis, accompanied by all information requested by the department.

641—11.88(141A) Distribution requirements.

11.88(1) Enrolled individuals shall be eligible to receive financial assistance only for drugs that:

- a. Have received Food and Drug Administration approval to treat HIV or prevent the deterioration of health due to HIV; and
- b. Are on the Iowa AIDS ADAP formulary.

11.88(2) The primary care provider shall write each drug prescription for an applicant or enrolled individual.

11.88(3) The enrolled individual must obtain the approved drug from the department’s contracted pharmacy unless an exception to this requirement is granted by the department.

641—11.89(141A) ADAP waiting list.

11.89(1) If an applicant is eligible for ADAP and sufficient funds are available to provide services to the applicant, the department shall enroll the applicant. If the applicant is eligible for ADAP and sufficient funds are not available to provide services to the applicant, the department shall place the applicant’s name on the ADAP waiting list in the order provided for in this rule.

11.89(2) The department shall place names on the waiting list in the following order:

- a. Women who have been diagnosed with HIV infection or AIDS and who are pregnant shall be placed on the waiting list with priority over all other applicants.
- b. Applicants that are already on medications shall be placed on the waiting list with priority over all applicants listed in paragraphs “c” and “d.”
- c. HIV medication naïve patients shall be placed on the waiting list in the following order with priority over all applicants listed in paragraph “d”:

(1) CD4 count of < 200 cells/mm³ regardless of viral load.

(2) New opportunistic (HIV-related) infection or malignancy.

(3) Asymptomatic and CD4 count of 200-350 and viral load > 55,000 copies/ml.

(4) Asymptomatic and CD4 count of > 350. If viral load is > 55,000, a documented fall in CD4 counts on three measurements of at least 15 percent of first measurement (i.e., 500 on first test must drop to less than or equal to 425).

d. All other applicants shall be placed on the waiting list in chronological order based upon the date of receipt of a completed application by the department.

11.89(3) To verify that applicants on the waiting list continue to meet ADAP eligibility requirements, the department shall require applicants on the waiting list to submit reapplication forms annually.

641—11.90(141A) Appeals. The department shall cause an applicant to be notified of the department’s decision to approve or deny an application or to place an applicant on the ADAP waiting list. In the event an applicant is dissatisfied with the department’s decision, the applicant may submit a formal appeal in writing to the ADAP advisory committee. Such request shall be delivered in person or shall be mailed by certified mail, return receipt requested, to ADAP Advisory

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Committee, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Upon receipt of such an appeal, the ADAP advisory committee shall review the case and issue a written determination within 15 days of receipt of the request. The decision shall refer to the applicant by initials or other nonidentifying means. The ADAP advisory committee's decision shall be final and binding. This appeal process does not constitute a contested case proceeding as defined in Iowa Code chapter 17A.

641—11.91(141A) Confidentiality. The ADAP application and all information received or maintained by the department in connection with the ADAP program shall be considered confidential information in accordance with Iowa Code section 141A.9.

ARC 3572B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 144.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 96, “Vital Records,” Iowa Administrative Code.

This amendment will increase the fee for each certified copy or short form certification of certificates or records and for a search of the files or records when no copy is made or when no record is found on file. Iowa Code section 144.46 gives the Department the authority to establish fees for a copy of a vital record based on the average administrative cost. The last increase in these fees occurred in 1993. The fees collected by the county are divided among the county registrar, the state registrar and the general fund. The fees collected by the state registrar are divided between the state registrar and the general fund. This amendment also provides for a portion of the fee collected for death certificates to support the operation of the state medical examiner's office because of the contribution that office makes to the modernization of vital records.

Any interested person may make written comments or suggestions on the proposed amendment on or before August 24, 2004. Such written comments should be directed to Jill France, Chief, Bureau of Health Statistics and Vital Records, Iowa Department of Public Health, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

A public hearing will be held over the Iowa Communications Network (ICN) on August 24, 2004, from 1:30 to 3:30 p.m. in the ICN Conference Room, Lucas State Office Building, 321 East 12th Street, Sixth Floor NW, Des Moines, Iowa 50319, and at the following additional ICN sites:

Iowa Central Community College
916 North Russell, Room 16
Storm Lake, Iowa 50588

Ottumwa High School
501 E. 2nd
Voc. Tech. Building, Room 157
Ottumwa, Iowa 52501

Red Oak High School
2011 N. 8th Street, Room 304
Red Oak, Iowa 51566

North Fayette High School
North Pine Street
West Union, Iowa 52175

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment. Any person who plans to attend the public hearing and who may require special accommodations, such as those for hearing or mobility impairments, should contact the Department and advise of specific needs.

This amendment is intended to implement Iowa Code section 144.46; 1993 Iowa Acts, chapter 55; 1994 Iowa Acts, chapter 1068, section 8; and 2004 Iowa Acts, Senate File 2298, section 104.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind rule 641—96.4(144) and adopt the following **new** rule in lieu thereof:

641—96.4(144) Fees. The following fees shall be charged for the various services provided by the state or county registrar.

96.4(1) A fee of \$15 shall be charged for the preparation of an adoption certificate, for amending a certificate, for amending a certificate of birth to reflect legal change of name, and for the preparation of a delayed certificate, for processing any other administrative or legal action, and for the preparation of copies of supporting documents on file in the state registrar's office.

96.4(2) A fee of \$15 shall be charged by the state registrar and a fee of \$15 shall be charged by the county registrar for each record search conducted and shall include the issuance of a copy if the record is located. A fee of \$15 shall be charged for each additional certified copy issued. If following a search no record is found, the \$15 fee shall be retained.

96.4(3) A fee of \$15 shall be charged by the state registrar for amending an abstract or other legal documentation in support of the preparation of a new certificate.

96.4(4) Any overpayment of less than \$15 received by the state registrar for copying of or search for vital records, or for preparation or amending of a certificate, shall not be refunded.

96.4(5) When an individual is in possession of a previously issued certified copy of a vital record and the original record is subsequently changed or amended, the individual may request and receive a certified copy of the changed record without charge, if the uncorrected certified copy is relinquished.

96.4(6) When a search is conducted by the person requesting the copy, a fee of \$4, to be retained by the county, shall be charged for an uncertified copy of a county record.

96.4(7) All fees collected by the county and state registrar, with the exception of the fee in subrule 96.4(6), shall be distributed as follows.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. Fees collected by a county registrar. The county registrar shall retain \$4 of all fees collected by that office. The balance of fees collected by the county registrar shall be divided as follows:

(1) For birth and marriage certificates, the state registrar shall receive \$8, and \$3 shall be deposited in the general fund of the state.

(2) For death certificates, the state registrar shall receive \$6, the office of the state medical examiner shall receive \$3, and \$2 shall be deposited in the general fund of the state.

b. Fees collected by the state registrar. The state registrar shall retain \$9 of all fees collected by that office. The balance of fees collected by the state registrar shall be divided as follows:

(1) For birth and marriage certificates, \$6 shall be deposited in the general fund of the state.

(2) For death certificates, the office of the state medical examiner shall receive \$3, and \$3 shall be deposited in the general fund of the state.

All fees retained by the state registrar shall be added to the fund established by the department for the modernization of vital records.

All fees received by the office of the state medical examiner shall be added to the fund established for the operation of that office and the contribution it makes to the modernization of vital records.

This rule is intended to implement Iowa Code section 144.46; 1993 Iowa Acts, chapter 55; 1994 Iowa Acts, chapter 1068, section 8; and 2004 Iowa Acts, Senate File 2298, section 104.

ARC 3573B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 135.11(13) and 135.72, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 202, "Certificate of Need Program," Iowa Administrative Code.

The proposed amendments clarify some of the procedures followed by the Health Facilities Council. Item 1 amends the listing of specific facilities that are included in the definition of "organized outpatient health facility." Item 2 provides clarity to the term "relocation" by incorporating existing practice into the rules. Item 3 adds two new subrules to clarify how preliminary review determinations are to be made.

Any interested person may make written comments or suggestions on the proposed amendments on or before August 24, 2004. Such written comments should be directed to Barb Nervig, Certificate of Need Program, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to bnervig@idph.state.ia.us.

The State Health Facilities Council reviewed these proposed amendments at their scheduled meeting on June 30, 2004.

These amendments are intended to implement Iowa Code sections 135.61 to 135.83.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 202.1(7) as follows:

202.1(7) "Organized outpatient health facility" as defined in Iowa Code section 135.61(20) shall include, but not be limited to, the following types of facilities:

a. ~~Family planning clinics;~~

b. ~~Neighborhood health centers;~~

e a. Community mental health centers;

d. ~~Drug abuse or alcoholism treatment centers;~~

e b. ~~Rehabilitation facilities. Certified outpatient rehabilitation facilities (CORFs), certified by Medicare.~~

ITEM 2. Renumber subrule **202.1(11)** as **202.1(12)** and add the following **new** subrule:

202.1(11) "Relocation of an institutional health facility," as the term applies to new or changed institutional health service in Iowa Code section 135.61(18)"b," means the replacement of a facility located in one county with a facility located in another county.

ITEM 3. Renumber subrule **202.3(2)** as **202.3(4)** and add the following **new** subrules:

202.3(2) In making a preliminary review determination, the exclusion contained in Iowa Code section 135.63(2)"o" shall not be construed to result in an increase in the number of institutional health facilities in the state.

202.3(3) The health services listed in Iowa Code section 135.61(18)"m" shall be deemed to require a certificate of need for the initiation or expansion of these services.

ARC 3570B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14, 437A.25, and 441.21(2), the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 70, "Replacement Tax and Statewide Property Tax," Chapter 71, "Assessment Practices and Equalization," and Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

Item 1 amends rule 70.1(437A) to update Iowa Code references which, in practice, add additional information that a taxpayer subject to the replacement tax is required to include with a return filed with the Director of Revenue.

Items 2 and 4 amend rules 70.2(437A) and 70.15(437A) to extend the time for the filing of a replacement tax return with the Director of Revenue from February 28 to March 31.

REVENUE DEPARTMENT[701](cont'd)

Item 3 amends paragraph 70.6(1)“b” to replace a reference to “department of revenue and finance” with “department of revenue.”

Item 5 amends subrule 71.5(2) by adding a new paragraph “h” to require the owner of Section 42 property to notify the assessor when the property is withdrawn from the program and to impose a \$500 penalty for failure to make the required notification.

Item 6 amends rule 71.5(421,428,441) to update an implementation clause.

Item 7 amends rule 80.13(427B) to require the owner of property that qualifies for the wind energy production tax credit to pay the taxes levied on the property to the Department of Revenue rather than the county treasurer and to require that the property be assessed for taxation by the Department of Revenue rather than the local assessor.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 6, 2004, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 24, 2004. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 27, 2004.

These amendments are intended to implement Iowa Code chapter 437A and section 441.21(2) as amended by 2004 Iowa Acts, Senate File 2296, and 2004 Iowa Acts, Senate File 2298, sections 404 to 417.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 701—70.1(437A) as follows:

701—70.1(437A) Who must file return. Each taxpayer, as defined in Iowa Code *Supplement* section 437A.3(26) (30), shall file a true and accurate return with the director. The return shall include all of the information prescribed in Iowa

Code sections 437A.8(1)“a” through “e” “f” and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

ITEM 2. Amend rule 701—70.2(437A) as follows:

701—70.2(437A) Time and place for filing return. The return must be filed with the director on or before ~~February 28~~ *March 31* following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before ~~February 28~~ *March 31* following the tax year is untimely.

A taxpayer whose replacement tax liability before credits is \$300 or less is not required to file a return. ~~Such~~ A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue and Finance, Attention: Property Tax ~~Section~~ *Division*, Hoover State Office Building, Des Moines, Iowa 50319.

ITEM 3. Amend paragraph 70.6(1)“b” as follows:

b. Right of person upon receipt of notice of adjustment. A person who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due to the appropriate county treasurer. If payment is made, and the person wishes to contest the matter, the person should file a timely claim for refund. However, payment will not be required until an assessment has been made (although interest will continue to accrue if timely payment is not made). If no payment has been made, the person may discuss with the agent, auditor, clerk, or employee who notified the person of the discrepancy, either in person or through correspondence, all matters of fact and law which may be relevant to the situation. This person may also ask for a conference with the Department of Revenue and Finance, Property Tax ~~Section~~ *Division*, Hoover State Office Building, Des Moines, Iowa. Documents and records supporting the person’s position may be required.

ITEM 4. Amend rule 701—70.15(437A) as follows:

701—70.15(437A) Time and place for filing return. The return must be filed with the director on or before ~~February 28~~ *March 31* following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before ~~February 28~~ *March 31* following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and

REVENUE DEPARTMENT[701](cont'd)

postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue and Finance, Attention: Property Tax Section Division, Hoover State Office Building, Des Moines, Iowa 50319.

ITEM 5. Amend subrule **71.5(2)** by adding the following new paragraph "h":

h. Eligibility withdrawn. The property owner shall notify the assessor when property is withdrawn from Section 42 eligibility under the Internal Revenue Code. The notification must be provided by March 1 of the assessment year or the owner is subject to a penalty of \$500.

ITEM 6. Amend rule **701—71.5(421,428,441)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections 421.17, 428.4, 441.21 as amended by 2004 Iowa Acts, Senate File 2296, and 476.1D(10) and Iowa Code Supplement section 441.21.

ITEM 7. Amend rule 701—80.13(427B) as follows:

701—80.13(427B) Wind energy conversion property.

80.13(1) *Property that does not qualify for the wind energy production tax credit.* A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property. If the ordinance is repealed, the special valuation applies through the nineteenth assessment year following the first year the property was assessed. The special valuation applies to property first assessed on or after the effective date of the ordinance. The local assessor shall value the property in accordance with the schedule provided in Iowa Code Supplement section 427B.26(2). Public utility property qualifies for special valuation provided the taxpayer files a declaration of intent with the local assessor by February 1 of the assessment year the property is first assessed for tax to have the property locally assessed.

80.13(2) *Property that qualifies for the wind energy production tax credit.* The wind energy production tax credit applies to electrical production facilities placed in service on or after July 1, 2004, but prior to July 1, 2007. These facilities are to be assessed by the department of revenue for a period of 12 years and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The board of supervisors shall notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department of revenue. The board shall also notify the department of those facilities that are required to pay the property taxes to the department.

This rule is intended to implement Iowa Code section 427B.26 and 2004 Iowa Acts, Senate File 2298, sections 409 to 417.

TRANSPORTATION DEPARTMENT

Advisory Notice Adjusted Bid Thresholds

Pursuant to the authority of Iowa Code section 314.1B, subsection 3, the Director of Transportation gives an advisory notice of adjusted bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects. The adjusted bid threshold values will become effective January 1, 2005.

The bid threshold subcommittee, composed of three contractors, two county representatives, one city representative and the Director's designee, held a meeting in June 2004 to review bid thresholds. After a review of the construction price index, the subcommittee made the following three adjustments to bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects:

1. The county bid threshold in Iowa Code section 309.40 will be adjusted to \$67,000 effective January 1, 2005.

2. The bid threshold in Iowa Code section 384.96 for cities with a population of 50,000 or less will be adjusted to \$36,000 effective January 1, 2005.

3. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of more than 50,000 will be adjusted to \$51,000 effective January 1, 2005.

All other bid thresholds not addressed in this advisory notice will remain as currently stated in the appropriate Iowa Code sections.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

August 1, 2003 — August 31, 2003	5.25%
September 1, 2003 — September 30, 2003	6.00%
October 1, 2003 — October 31, 2003	6.50%
November 1, 2003 — November 30, 2003	6.25%
December 1, 2003 — December 31, 2003	6.25%
January 1, 2004 — January 31, 2004	6.25%
February 1, 2004 — February 29, 2004	6.25%
March 1, 2004 — March 31, 2004	6.25%
April 1, 2004 — April 30, 2004	6.00%
May 1, 2004 — May 31, 2004	5.75%
June 1, 2004 — June 30, 2004	6.25%
July 1, 2004 — July 31, 2004	6.75%
August 1, 2004 — August 31, 2004	6.75%

ARC 3547B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 217.6, 235A.14(1), and 235B.5(1), the Department of Human Services amends Chapter 7, "Appeals and Hearings," and Chapter 175, "Abuse of Children," Iowa Administrative Code.

These amendments remove provisions requiring a Department reconsideration of a child abuse report or a dependent adult abuse report when a subject of the report seeks correction or expungement of the abuse information. Currently the subject is required to exhaust this review process before the request is referred for an appeal hearing. The Department has received complaints about the length of time required to complete the review and appeal process. Under these amendments, a person who requests correction or expungement of abuse information will be advised to file a request for an appeal hearing under 441—Chapter 7.

The amendments also make technical changes to update organizational references and addresses in Chapter 175.

These amendments do not provide for waivers in specified situations because they benefit the persons affected by shortening the process for resolving disputes about the accuracy of abuse information and make technical changes. Individuals may request a waiver of these rules under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments July 7, 2004.

The Department finds that notice and public participation are contrary to the public interest because the present policy interferes with a subject's right to due process. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit on subjects of child or dependent adult abuse reports by streamlining the process for resolving disputes about the accuracy of the information. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

These amendments are intended to implement Iowa Code chapter 17A and sections 235A.19 and 235B.10.

These amendments are also published herein under Notice of Intended Action as **ARC 3548B** to allow for public comment.

These amendments became effective July 9, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule **441—7.1(17A)** as follows:

Amend the definition of "aggrieved person," numbered paragraph "**8**," as follows:

8. For the child or *dependent* adult abuse registry, juvenile sex offender registry or criminal records record check evaluation, a person:

- Who has been ~~denied expungement or requested~~ correction of child abuse or *dependent* adult abuse registry information.

- Who has been restricted *from* or denied employment in a health care facility, state institution, or other facility

based on a record check. "Employment" includes, but is not limited to, service as an employee, a volunteer, a provider, or a contractor. "Facilities" include, but are not limited to, county or multicounty juvenile detention homes and juvenile shelter care homes, child-placing agencies, substance abuse treatment programs, group living foster care facilities, child development homes, child care centers, state resource centers, mental health institutes, and state training schools.

- Who is contesting a risk assessment decision as provided in rule 441—103.34(692A) by alleging that the risk assessment factors have not been properly applied, the information relied upon to support the assessment findings is inaccurate, or the procedures were not correctly followed.

Amend the definition of "reconsideration" as follows:

"Reconsideration" means a review process that must be exhausted before an appeal hearing is granted. Such review processes include, but are not limited to, a reconsideration request through the Iowa Foundation for Medical Care, Magellan Behavioral Health Care, a health maintenance organization, a prepaid health plan, Medicaid patient management services, the managed health care review committee, a division or bureau within the department, the mental health and developmental disabilities commission, ~~the child or adult abuse registry~~, or a licensed health care professional as specified in 441—paragraph 9.9(1)"i." Once the reconsideration process is complete, a notice of decision will be issued with appeal rights.

ITEM 2. Amend **441—Chapter 175**, Division II, title, as follows:

DIVISION II

CHILD ABUSE ASSESSMENT PILOT PROJECTS

ITEM 3. Amend subrule **175.40(3)** as follows:

Amend paragraph "**a**" as follows:

a. A record check evaluation is being completed for licensing, registration, or employment or residence in a child care facility. If the department worker completing the record check evaluation determines the case does not meet the criteria specified in Iowa Code Supplement subsection 232.71D(3) and, therefore, should be expunged from the central abuse registry, the department worker shall provide copies of the written report and Form 470-2310, Record Check Evaluation, to the ~~Department of Human Services, Chief, Bureau of Program Support and Protective Services, Retroactive Review, Hoover State Office Building, Des Moines, Iowa 50319-0114~~ *bureau of protective services*.

(1) Within 30 days the bureau chief shall determine if the report is to be expunged from the central abuse registry and shall notify the ~~regional administrator~~ *service area manager* or designee in writing of that decision and the time frame for retention or expungement of the report. The bureau chief or designee shall notify the person on whom the review was completed of the decision to expunge the case from the central abuse registry.

(2) If the department determines that the case is to be expunged from the central abuse registry, no record check evaluation is necessary and the department shall notify the requester.

(3) If the department determines that the case does meet the criteria for placement on the central abuse registry, the department shall proceed with the record check evaluation ~~procedure~~.

Rescind and reserve paragraph "**b**."

ITEM 4. Amend subrule **175.42(3)** as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Amend paragraph “a” as follows:

a. The supervisor of the central abuse registry shall designate a person to be the single point of contact (SPOC) for all research proposals requesting child abuse information or involving department staff who provide child protective services. All proposals shall be routed to the SPOC at the Division of Adult, Children and Family Services, Department of Human Services, ~~Hoover State Office Building 1305 E. Walnut Street~~, Des Moines, Iowa 50319-0114.

Amend paragraph “b,” subparagraphs (4) and (5), as follows:

(4) Representatives from the field, including a ~~regional administrator service area manager~~ or designee and one representative from a ~~region service area~~, appointed by the ~~regional administrator service area manager~~, if a specific ~~region service area~~ is involved.

(5) A representative from the department’s division of ~~data management information~~, when the proposal involves use of one of the department’s computerized data systems.

[Filed Emergency 7/9/04, effective 7/9/04]

[Published 8/4/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3546B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2004 Iowa Acts, Senate File 2298, sections 119 and 143, the Department of Human Services amends Chapter 76, “Application and Investigation,” Iowa Administrative Code.

This amendment implements a health insurance data match program with insurance carriers. The purpose of the data match program is to match a list of insureds against the list of Medicaid recipients. Medicaid is the “payer of last resort” for health care costs. Medicaid recipients who have other health insurance coverage are required to use that coverage first before billing the Medicaid program. When the Department becomes aware of other coverage, Medicaid will not pay claims until the provider shows the results of billing the other carrier. This practice results in cost avoidance for the Medicaid program.

The amendment requires any insurance carrier providing a health benefit plan in Iowa to enter into an agreement with the Department to provide the data necessary to carry out the match and specify the terms of the agreement. Insurance carriers are to provide the data beginning September 1, 2004.

This amendment does not provide for waivers in specified situations because all health insurers should be required to provide the data necessary to enable the Department to match insureds against Medicaid recipients and identify third-party payers for Medicaid recipients.

The Council on Human Services adopted this amendment July 7, 2004.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because this amendment implements 2004 Iowa Acts, Senate File 2298, section 119, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of this amendment should be waived, as authorized by 2004 Iowa Acts, Senate File 2298, section 119, subsection 2, and section 143.

This amendment is intended to implement Iowa Code section 249A.3, subsection 10, and 2004 Iowa Acts, Senate File 2298, section 119.

This amendment is also published herein under Notice of Intended Action as **ARC 3545B** to allow for public comment.

This amendment became effective July 9, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is adopted.

Adopt **new** rule 441—76.13(249A) as follows:

441—76.13(249A) Health insurance data match program.

76.13(1) Agreement required. Any insurance carrier providing a health benefit plan in Iowa subject to regulation by the Iowa commissioner of insurance shall enter into and maintain an agreement with the department to provide the data necessary to enable the department to match insureds against medical assistance recipients and identify third-party payers for medical assistance recipients.

a. A carrier that is providing a health insurance benefit plan in Iowa as of July 1, 2004, shall enter into an agreement in accordance with subrule 76.13(2) by August 1, 2004, to provide data as described in paragraph 76.13(1)“b” beginning September 1, 2004.

b. The data provided shall include the data necessary to enable the department to match insureds and identify third-party payers for the two-year period before the provision of the data.

76.13(2) Agreement form. The agreement required by subrule 76.13(1) shall be in substantially the following form:

DATA USE AGREEMENT

(For use by Iowa Department of Human Services and its fiscal agent receiving insurance data matching files)

Agreement for Use of Insurance Carrier Data
Containing Individual-Specific Information

Pursuant to 42 U.S.C. § 1396a(a)(25)(A) and 42 CFR 433.138 and 433.139, the Iowa Department of Human Services is required to take all reasonable measures to ascertain the legal liability of third parties to pay for care and services available under the Iowa Medical Assistance program administered by the Department pursuant to Iowa Code chapter 249A (also known as Medicaid or Title XIX). Where third-party liability exists, the Department must either reject claims for payment and return them to the provider of care and services for a determination of the amount of third-party liability or must seek reimbursement from the third party after payment of claims.

Pursuant to 2004 Iowa Acts, Senate File 2298, sections 119(1)“c” and 153, the Department of Human Services and insurance carriers providing health benefit plans in Iowa are required to enter into a health insurance data match program to match insureds against Medical Assistance recipients for purposes of identifying third-party payers for Medical Assistance recipients.

To provide the Department of Human Services with the information necessary to identify third-party payers by match-

HUMAN SERVICES DEPARTMENT[441](cont'd)

ing Iowa Medical Assistance recipients against individuals insured by _____, and to ensure the integrity, security, and confidentiality of the information provided, the Department of Human Services and _____ agree to the following terms and conditions:

1. This Agreement is by and between _____, hereinafter termed "Carrier," and the Iowa Department of Human Services, hereinafter termed "User."

2. This Agreement addresses the conditions under which the Carrier will disclose and the User will obtain and use the Carrier data files specified in Paragraph 8. The terms of this Agreement can be changed only by a written modification to this Agreement or by the parties adopting a new agreement. The parties agree further that communication regarding this Agreement shall be through the Iowa Department of Human Services Custodian identified in Paragraph 4 and the Carrier Point of Contact identified in Paragraph 5 or that individual's signatory to this Agreement as shown in Paragraph 16, or those individuals' successors.

3. The parties mutually agree that the Carrier retains all ownership rights to the data file(s) referred to in this Agreement, and that the User does not obtain any right, title, or ownership interest in the data files furnished by the Carrier.

4. The parties mutually agree that the following named individual is designated as "Custodian" of the files on behalf of the User and shall be responsible for the observance of all conditions of use and for establishment and maintenance of security arrangements as specified in this Agreement to prevent unauthorized use. The User agrees to notify the Carrier within 15 business days of any change of custodianship.

Iowa Department of Human Services Custodian

(Name of Custodian)

Iowa Department of Human Services
(State Medicaid Agency)

1305 E. Walnut Street, Hoover State Office Building
(Street Address)

Des Moines, Iowa 50319-0114
(City/State/ZIP Code)

(Telephone number including area code)

(E-mail address, if applicable)

5. The parties mutually agree that the following named individual will be designated as the Carrier "point-of-contact" for the Agreement.

(Name of Contact)

(Title)

(Street Address)

(City/State/ZIP Code)

(Telephone number including area code and E-mail address, if applicable)

6. The Carrier agrees to provide a full data match file beginning September 1, 2004, and a full data match or a submission of changes on a monthly basis thereafter. If the Carrier chooses to submit the changes on a monthly basis, the Carrier shall provide a full replacement data match file on a quarterly basis. The data file will include data for the most recent 24-month period. The content of the data file shall be limited to Iowa resident insureds as defined by the Iowa Medical Assistance program and shall reveal, to the extent that Carrier's records include the information, the data described in Paragraph 8. The Carrier will transmit the data file to User in a medium and by a date as mutually agreed upon. The data file will contain an identifier indicating "full file" or "replacement file."

7. The User represents, and in furnishing the data files specified in Paragraph 8 the Carrier relies upon such representation, that such data files will be used solely for the purpose of matching insureds against Medical Assistance recipients and identifying third-party payers for Medical Assistance recipients, as required or permitted by state or federal law. The User represents further that the User shall not disclose, release, reveal, show, sell, rent, lease, loan, or otherwise grant access to the data covered by this Agreement to any third party except as required to match insureds against Medical Assistance recipients and identify third-party payers for Medical Assistance recipients, including the identification of third-party payers to providers of Medicaid services for billing purposes. The parties further agree that they shall adhere to the privacy obligations as set forth in Exhibit B, attached hereto and incorporated by reference. The User agrees that, within the User organization, access to the data covered by this Agreement shall be limited to the minimum number of individuals necessary to achieve the purpose stated in this paragraph and to those individuals on a need-to-know basis only.

8. The following Carrier data files are covered under this Agreement:

- Transaction code sets, previously established pursuant to prior agreement between User and Carrier, in place upon execution of this Agreement, if applicable, or
- Standard transaction code sets as defined in Exhibit A: Data Element List, attached hereto and incorporated by reference.

9. The parties mutually agree that the User will retain the files described in Paragraph 8 for 30 days. The User will destroy the files within 30 days of receipt.

10. The User agrees to establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent unauthorized use or access to it. The User acknowledges that the use of unsecured telecommunications, including the Internet, to transmit individually identifiable or deducible information derived from the files specified in Paragraph 8 is prohibited. Further, the User agrees that the data must not be physically moved or transmitted in any way from the Medicaid Management Information System (MMIS) without written approval from the Carrier.

11. The parties mutually agree that the following specified attachments are part of this Agreement:

- Exhibit A: Data Element List
- Exhibit B: Privacy Obligations

12. The User agrees that, in the event the Carrier determines or has a reasonable belief that the User has made or may have made disclosure of the aforesaid files that is not authorized by this Agreement or other written authorization from the appropriate System Manager or the person design-

HUMAN SERVICES DEPARTMENT[441](cont'd)

nated in Paragraph 16 of this Agreement, the Carrier in its sole discretion may require the User to:

- Promptly investigate and report to the Carrier the User’s determinations regarding any alleged or actual unauthorized disclosure;
- Promptly resolve any problems identified by the investigation;
- If requested by the Carrier, submit a formal response to an allegation of unauthorized disclosure;
- If requested by the Carrier, submit a corrective action plan with steps designed to prevent any future unauthorized disclosures; and
- If requested by the Carrier, return data files to the Carrier.

The User understands that, as a result of the Carrier’s determination or reasonable belief that unauthorized disclosures have taken place, the Carrier may refuse to release further data to the User for a period of time to be determined by the Carrier.

13. By signing this Agreement, the User agrees to abide by all provisions set out in this Agreement for protection of the data files specified in Paragraph 8.

14. On behalf of the User, the undersigned individual hereby attests that the individual is authorized to enter into this Agreement and agrees to all the terms specified herein.

Eugene I. Gessow, Medicaid Director
(Name and Title of Individual – Typed or Printed)

Iowa Department of Human Services
(State Medicaid Agency)

1305 E. Walnut Street, Hoover State Office Building
(Street Address)

Des Moines, Iowa 50319-0114
(City/State/ZIP Code)

(515)281-6249; egessow@dhs.state.ia.us
(Telephone number, including area code and E-mail address, if applicable)

(Signature) (Date)

15. The Custodian, as named in Paragraph 4, hereby acknowledges appointment as Custodian of the aforesaid files on behalf of the User, and agrees as an employee of the User (or Fiscal Agent, as applicable) to comply with all of the provisions of this Agreement on behalf of the User.

Iowa Department of Human Services

(Typed or Printed Name of Custodian)

(Signature)

(Date)

16. On behalf of the Carrier, the undersigned individual hereby attests that the individual is authorized to enter into this Agreement and agrees to all the terms specified herein.

(Typed or Printed Name and Title of _____ Representative)

(Signature) (Date)

17. The Carrier and the User will enter into a trading partner agreement as required by HIPAA.

Exhibit A: Data Element List

The first three fields are not maintained on the TPL Resource file. This data is pulled from the Recipient Eligibility file. Therefore, the field types and lengths represent how they are stored on the Eligibility file, not the TPL Resource file. Field length information as supplied by the Carrier is acceptable.

- Dependent Social Security Number (alphanumeric, 9 characters, if available)
- Dependent Name:
 1. First (alphanumeric)
 2. Last (alphanumeric)
 3. Middle (alphanumeric)
- Dependent Date of Birth (This field is 8 characters long.)
- Member Identification Number
- Carrier Code (alphanumeric, 5 characters, as assigned by User—required only once per submission)
- Coverage Type (alphanumeric)
 - 06 Medical
 - 12 Medicare supplement
 - 15 Dental
 - 19 Pharmacy
 - 20 Vision
- Policy Holder Social Security Number (alphanumeric, 9 characters, if available to Carrier)
- Policy Holder Name (alphanumeric, 30 characters)
- Group Number (alphanumeric, 30 characters, optional)
- Group/Employer Name and Address (alphanumeric, 32 characters, optional)
- Coverage Begin Date (YYYYMMDD, stored as century date)
- Coverage End Date (YYYYMMDD, stored as century date)
- Dependent Relationship to Member/Insured (alphanumeric, as available to Carrier)
 - 1 Self
 - 3 Other
 - 4 Parent
 - 5 Spouse
 - 8 Grandparent
 - 9 Dependent

NOTE: All alphanumeric fields are left-justified and blank-filled. All numeric fields are right-justified and zero-filled.

Exhibit B: Privacy Obligations

The parties agree that the provisions of Exhibit B (“Exhibit”), in addition to the confidentiality provisions set forth in the main body of the Agreement to which this Exhibit is attached, shall apply to all information that constitutes PHI, as defined below.

A. Definitions

For purposes of this Exhibit:

“Agreement” means the Data Use Agreement under which User will have access to PHI and to which this Exhibit is attached and herein incorporated by reference.

“Carrier” means [_____].

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Designated Record Set” means any item, collection, or grouping of information that includes PHI and is maintained, collected, used or disseminated by or for Carrier.

“Individual” means the person who is the subject of PHI and shall include a person who qualifies as a personal representative in accordance with the Privacy Rule.

“PHI” means all protected health information, as that term is defined in 45 CFR 160.103, regardless of form, that is created or received by User from or on behalf of Carrier.

“Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

“User” means the Iowa Department of Human Services.

Terms used but not otherwise defined in this Exhibit shall have the same meaning as in the Privacy Rule.

B. Obligations and Activities of User

1. User agrees not to use or disclose PHI other than as permitted or required by this Agreement or by law.

2. User agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as permitted or required by this Agreement or by law.

3. User agrees to mitigate, to the extent practicable, any harmful effect that is known to User of a use or disclosure of PHI by User in violation of the requirements of this Agreement.

4. User agrees to promptly report to Carrier any use or disclosure of PHI not permitted or required by this Agreement or by law of which the User becomes aware.

5. User agrees to ensure that any agent, including a subcontractor, to whom User provides PHI, agrees to the same restrictions and conditions that apply through this Agreement to User with respect to such information.

6. With respect to PHI contained in a Designated Record Set, User agrees to provide, within seven days after a request by Carrier, access to such PHI to Carrier or, as directed by Carrier, to an individual in order to meet the requirements of the Privacy Rule.

7. With respect to PHI contained in a Designated Record Set, User agrees to promptly make any amendment to such PHI that Carrier directs.

8. User agrees to make all PHI and all internal practices, books and records, including policies and procedures relating to the use and disclosure of PHI, available to Carrier or to the Secretary of the Department of Health and Human Services (“Secretary”), upon the request or at the direction of Carrier or the Secretary, for purposes of the Secretary’s determination of Carrier’s compliance with the Privacy Rule.

9. User agrees to document disclosures of PHI and information related to such disclosures to the extent required for Carrier to respond to a request by an individual for an accounting of disclosures of PHI for purposes other than treatment, payment, or health care operations, pursuant to 45 CFR 164.528, and to provide the information contained in such documentation to Carrier or to the Individual requesting the accounting within seven days after a request for such information.

C. Permitted Uses and Disclosures by User

1. Except as otherwise limited in this Agreement, User may disclose PHI to perform functions, activities or services for, or on behalf of, Carrier as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Carrier or the minimum necessary policies and procedures of Carrier.

2. Except as otherwise limited in this Agreement, User may use PHI for its proper management and administration or to carry out its legal responsibilities, provided that, in the case of any disclosures for such purposes that are not re-

quired by law, User shall obtain reasonable assurances from the person to whom the disclosure is made that the disclosed PHI will remain confidential and used and disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person agrees to notify User of any instances of which the person becomes aware in which the confidentiality of PHI has been breached.

3. User may use PHI to provide data aggregation services to Carrier as permitted by the Privacy Rule.

D. Obligations of Carrier

1. Carrier shall notify User of any limitations in Carrier’s notice of privacy practices to the extent that such limitation may affect User’s use or disclosure of PHI.

2. Carrier shall notify User of any changes in, or revocation of, permission by an individual to use or disclose PHI, to the extent that such changes may affect User’s use or disclosure of PHI.

3. Carrier shall notify User of any restriction to the use or disclosure of PHI that Carrier has agreed to for an individual, to the extent that such restriction may affect User’s use or disclosure of PHI.

E. Remedy for Breach

Notwithstanding any provision of this Agreement to the contrary, upon Carrier’s knowledge of a material breach by User of any obligation set forth in this Exhibit, Carrier shall provide an opportunity for User to cure the breach or end the violation and shall report the violation to the Secretary of the Department of Health and Human Services if the cure is either not feasible or has not occurred within the time specified by Carrier.

F. Miscellaneous

1. Regulatory references. A reference in this Exhibit to the Privacy Rule or a section in the Privacy Rule means that rule or section as amended from time to time.

2. Compliance with law. In connection with its performance under this Agreement, User shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about individuals.

3. Survival. The respective rights and obligations of User and Carrier under the provisions of this Exhibit shall survive the termination of this Agreement.

4. Interpretation. Any ambiguity in the provisions of this Agreement shall be resolved to permit Carrier to comply with the Privacy Rule.

[Filed Emergency 7/9/04, effective 7/9/04]

[Published 8/4/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3581B

LABOR SERVICES DIVISION[875]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts amendments to Chapter 4, “Recording and Reporting Occupational Injuries and Illnesses,” and Chapter 10, “General Industry Safety and Health Rules,” Iowa Administrative Code.

These amendments adopt by reference new federal occupational safety and health regulations relating to record keeping for musculoskeletal disorders, tuberculosis, and commercial diving operations.

LABOR SERVICES DIVISION[875](cont'd)

The principal reasons for adoption of these amendments are to implement Iowa Code chapter 88 and to protect the safety and health of Iowa workers. Adoption of these amendments is required by 29 Code of Federal Regulations Subsection 1952.4 and Iowa Code subsection 88.5(1)"a."

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3429B**. These amendments are identical to those published under Notice of Intended Action. In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for June 29, 2004. One person attended the hearing, submitted a document, and made comments favorable to the amendments regarding record keeping.

Pursuant to Iowa Code section 17A.5(2)"b"(1) and (2), these amendments shall become effective upon publication on August 4, 2004. The Commissioner finds that these amendments confer benefits on employers by giving additional options for protecting employees involved in commercial diving operations and easing record-keeping requirements for musculoskeletal disorders. The Commissioner finds that both employers and employees will benefit from making Iowa's requirements consistent with those in other states. The Commissioner finds that Iowa Code section 88.5(1)"a" requires that the effective dates for these amendments be expedited.

No waiver or variance provision is included in these amendments because there is a statutory variance procedure in Iowa Code section 88.5.

These amendments are intended to implement Iowa Code section 88.5.

These amendments will become effective August 4, 2004.

The following amendments are adopted.

ITEM 1. Amend rule **875—4.3(88)** by inserting at the end thereof:

68 Fed. Reg. 38606 (June 30, 2003)

ITEM 2. Amend rule **875—10.20(88)** by inserting at the end thereof:

68 Fed. Reg. 75780 (December 31, 2003)

69 Fed. Reg. 7363 (February 17, 2004)

[Filed Emergency After Notice 7/16/04, effective 8/4/04]

[Published 8/4/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3569B

PHARMACY EXAMINERS BOARD[657]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 124.301, 124B.11, and 147.76, the Board of Pharmacy Examiners hereby amends Chapter 2, "Pharmacist Licenses," Chapter 3, "Pharmacy Technicians," Chapter 8, "Universal Practice Standards," Chapter 10, "Controlled Substances," Chapter 12, "Precursor Substances," and Chapter 17, "Wholesale Drug Licenses," Iowa Administrative Code.

The amendments were approved during the July 14, 2004, meeting of the Board of Pharmacy Examiners.

The amendments increase penalty fees assessed for: failure to timely renew a license to practice pharmacy; a license to operate a pharmacy; a license to distribute prescription

drugs at wholesale in Iowa; a permit to receive or distribute precursor substances; a registration to manufacture, distribute, dispense, prescribe, or otherwise handle controlled substances in Iowa; and a pharmacy technician registration. The amendments increase fees related to the issuance of new and renewed pharmacist licenses processed between July 1, 2004, and June 30, 2005, including examination, reexamination, and license transfer processing fees. The amendments increase the fee for additional original pharmacy license certificates and provide that the fee be considered a repayment receipt as defined in Iowa Code section 8.2. The amendments also increase fees related to the issuance of new and renewed pharmacy and wholesale drug licenses, new and renewed pharmacy technician and controlled substances registrations, and new and renewed precursor substances permits processed between July 1, 2004, and June 30, 2005.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the June 9, 2004, Iowa Administrative Bulletin as **ARC 3416B**. The adopted amendments are identical to those published under Notice. No comments were received regarding the proposed amendments, and no one appeared at the scheduled public hearing on June 29, 2004.

The Board finds, pursuant to Iowa Code subsection 17A.5(2)"b"(2), that the normal effective date of these rules, 35 days after publication, should be waived and the amendments should be made effective upon filing with the Administrative Rules Coordinator on July 16, 2004. These amendments confer a benefit to the Board, to the regulated community, and to the public.

The Board has operated for several years without adequate staffing to fulfill its mission to protect the public. Due to escalating costs of operation and funding reductions, the Board has had to reduce the size of its pharmacist field investigative staff over the past several years. Ten years ago the Board employed six pharmacist field investigators and a chief investigator; the Board now employs only three pharmacist field investigators and no chief investigator. The Board has been forced to discontinue periodic inspections of pharmacies, hospitals, and drug wholesalers, severely limiting the Board's ability to protect the public. Inadequate staffing and funding has also limited the Board's ability to respond to requests for information, to ensure that pharmacists and other practitioners are timely informed regarding legal and practice standard changes and issues, and to respond to complaints and allegations of illegal or unsafe practices of licensees and registrants.

The regulated professions served by the Board and the public will benefit from the addition of pharmacist investigator staff whose goal is to ensure the safe practices and operations of all individuals and businesses involved in the distribution of prescription drugs in Iowa. Pharmacist investigators advise pharmacists, pharmacist-interns, pharmacy technicians, prescribers, and other support personnel in matters relating to practice standards and the legal distribution of prescription drugs. These issues include pharmaceutical care, patient counseling, drug therapy, professional and technical pharmacy functions, storage and labeling of prescription drugs, record keeping, and security. Pharmacist investigators conduct periodic and special inspections of pharmacies, hospitals, and drug wholesalers; perform drug audits to ensure accountability and appropriate record keeping and to detect diversion; and assist law enforcement and other agencies in matters relating to the enforcement of Iowa and federal drug laws. Pharmacist investigators also monitor licensees

PHARMACY EXAMINERS BOARD[657](cont'd)

during periods of probation and collect body fluid samples for laboratory testing as required to ensure a licensee's compliance with the terms of a probation order.

Hiring additional pharmacist field investigators and an assistant dedicated to supporting those staff members will also ensure that staff members are available to provide educational programs and to respond to requests for information. Staff will be able to thoroughly investigate new technologies and innovative proposals affecting the practice of pharmacy and the distribution of prescription drugs in Iowa to ensure patient safety if those practices and technologies are approved or adopted in Iowa.

These amendments became effective July 16, 2004.

These amendments are intended to implement Iowa Code sections 124.301, 124B.11, 147.94, 155A.6, 155A.11, 155A.13, 155A.13A, 155A.14, and 155A.17.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [2.3(1), 2.6, 2.9(4), 2.11, 2.11(1), 2.14, 3.10(1), 3.10(2), 3.11(1), 8.35(4), 10.3, 10.3(2), 12.7(2), 17.3(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 3416B**, IAB 6/9/04.

[Filed Emergency After Notice 7/16/04, effective 7/16/04]
[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3549B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 692A.10, the Department of Public Safety hereby amends Chapter 8, "Criminal Justice Information," Iowa Administrative Code.

The Iowa Department of Public Safety maintains a central registry of information collected from persons who are required to register under Iowa Code chapter 692A, which is known as the Iowa Sex Offender Registry. Prior to May 17, 2004, the extent to which information from the registry was accessible to the general public varied according to the outcome of a risk assessment performed in accordance with Iowa Code Supplement section 692A.13A. In general, information about persons assessed as "moderate-risk" or "high-risk" was more widely disseminated than information about persons assessed as "low-risk." Information about all registrants was available to the general public, regardless of risk classification, upon specific request to the county sheriff or local police department. Information about registrants who had been classified as "high-risk" or "moderate-risk" to reoffend was also available on the Sex Offender Registry Web site. Information about persons classified as "low-risk" or who had not yet been assessed was not available on the Web site.

The risk assessment procedures were repealed on May 17, 2004, by the enactment of 2004 Iowa Acts, Senate File 2298, Division XXV. For purposes of the Sex Offender Registry, state agencies will no longer assess the risk that any particular offender will reoffend. While Sex Offender Registry risk assessments may have provided potentially valuable information, tying the nature of public information to the outcome

of such a risk assessment has denied the general public access to a comprehensive list of offenders, all of whom have publicly been convicted of offenses triggering the registration process and all of whom have been afforded the opportunity to challenge the determination that they were required to register.

Iowa Code section 692A.13 as amended by 2004 Iowa Acts, Senate File 2298, section 464, now authorizes the Department to provide the general public electronic access to information about all persons who are registered, with the exception of those who do fall into one narrow exclusion. The exclusion provides that information about an offender whose sole reason for having to register is a violation of Iowa Code section 709.4, subsection 2, paragraph "c," subparagraph (4), and who was under 20 years of age at the time of the offense, shall not be disclosed on the web page.

The publicly accessible Sex Offender Registry Web site will now better serve the public interest by providing a comprehensive directory of persons who have been convicted of offenses that require registration. The Department is in the process of redesigning the Sex Offender Registry Web site to delete all references to risk assessments and to ensure that the Web site is presented to the general public solely as a directory of offenders who are required by statute to register.

This emergency rule making also includes a significant amendment to the process for application for determination described in 661—subrule 8.303(4). This subrule has always included a process under which offenders could challenge on any lawful ground the determination that their convictions required registration or any determination regarding the expiration of the time period in which registration is required. In situations in which the determination hinges on resolution of a factual dispute, the rule provides that the Commissioner may refer the matter for hearing before an administrative law judge or other presiding officer. The same process will now clearly be available to registrants who wish to challenge on any lawful ground their inclusion on the web page directory of registered sex offenders. In those instances in which an issue of fact that cannot be readily resolved by the records submitted with the application for determination is material to the determination, the Commissioner may refer the matter to an administrative law judge or presiding officer for a contested case hearing. While it is anticipated that very few registrants will raise material issues of fact which would trigger the referral for hearing, the process, whether or not it triggers an evidentiary hearing, will allow the Department to assess all challenges, based on provision of law or fact, for Departmental consideration and action prior to judicial review under Iowa Code chapter 17A.

An additional change included in these amendments is clarification of existing language in the rules regarding access to Sex Offender Registry information through the Single Contact Repository established in Iowa Code section 135C.33.

Pursuant to Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments is impracticable. Given the strong public interest in a comprehensive directory of all registered sex offenders, the Department finds that it is impracticable and undesirable to delay adding information about all registered offenders to the Registry Web site, except those offenders who were under 20 years of age at the time they committed a violation of Iowa Code section 709.4, subsection 2, paragraph "c," subparagraph (4).

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived

PUBLIC SAFETY DEPARTMENT[661](cont'd)

and the amendments made effective July 15, 2004, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by providing that information from the Iowa Sex Offender Registry shall be generally available to the public through the Department's Web site, with very limited exceptions.

The language adopted in this emergency rule making will also be included in a Notice of Intended Action to be filed in the near future. The Notice of Intended Action will provide an opportunity for public comment on and participation in this rule-making process, including a public hearing, and may include additional amendments beyond those adopted here.

These amendments are intended to implement Iowa Code chapter 692A as amended by 2004 Iowa Acts, Senate File 2298, Division XXV.

These amendments became effective July 15, 2004, after filing in the Governor's Office.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 661—8.302(692A) by renumbering subrules **8.302(8)** to **8.302(12)** as **8.302(9)** to **8.302(13)** and adopting the following **new** subrule:

8.302(8) "Relevant information" means information including, but not limited to, offender's name, offender's address or addresses, a photograph or photographs of the offender, locations frequented by the offender, criminal history information from the registry, physical descriptors of the offender, ages and genders of victims, and other information deemed relevant by the department.

ITEM 2. Amend rule 661—8.303(692A) as follows:

Amend subrule 8.303(4) as follows:

8.303(4) Application for determination. Form DCI-148, "Application for Determination," shall be completed by a registrant to initiate a request that the department review whether one or more offenses of which the registrant has been convicted require registration with the Iowa sex offender registry, ~~or~~ whether the time period during which the registrant is required to register has expired, *or whether the registrant is exempt from the placement of information on the sex offender registry Web site.* A registrant who submits a completed copy of Form DCI-148 for review shall provide with it copies of any sentencing or adjudicatory orders related to each offense for which a determination of whether registration is required is being requested. The completed application (Form DCI-148) shall specify the exact grounds for the application and shall include a statement of any additional facts *or law* which the registrant intends to present to the department in support of the application. Failure to submit any of the required ~~orders~~ *information* shall constitute grounds for denial of the application. If the application sets forth an issue of fact which cannot be evaluated based upon the record of convictions, sentencing and adjudicatory orders, ~~and~~ relevant statutory provisions, *and other records provided, and is material to the determination,* the commissioner may refer the matter to an administrative law judge or presiding officer for a *contested case* hearing.

Rescind and reserve subrule **8.303(8)**.

ITEM 3. Rescind rule 661—8.304(692A) and adopt in lieu thereof the following **new** rule:

661—8.304(692A) Availability of records.

8.304(1) Release of information to criminal or juvenile justice agencies. The department may, without restriction, release information regarding any registrant to any criminal or juvenile justice agency, an agency of the state of Iowa, any sex offender registry of another state, or the federal government.

8.304(2) Sex offender registry Web site. The department shall place information regarding each registrant on the registry Web site (www.iowasexoffenders.com), except that information regarding any registrant for whom the sole basis of registration is a conviction or convictions for a violation or violations of Iowa Code section 709.4, subsection 2, paragraph "c," subparagraph (4), and whose offense was committed when the offender was under 20 years of age, shall not be placed on the Web site. Information regarding a registrant placed on the sex offender registry Web site may include any relevant information.

8.304(3) Release of information by a criminal or juvenile justice agency. A criminal or juvenile justice agency may provide relevant information from the sex offender registry to the following:

a. A criminal or juvenile justice agency, an agency of the state, any sex offender registry of another state, or the federal government.

b. The general public, including public and private agencies, organizations, public places, public and private schools, child care facilities, religious and youth organizations, neighbors, neighborhood associations, community meetings, and employers. Registry information may be distributed to the public through printed materials, visual or audio press releases, or through a criminal or juvenile justice agency's Web site.

8.304(4) List of registrants in county. Any county sheriff shall provide access to the list of all registrants within the county in which the sheriff has jurisdiction to any person who requests such a list; however, records of persons protected under 18 U.S.C. Section 3521 shall not be disclosed.

8.304(5) Release of information in response to individual request. A sheriff or police department that receives a completed Form DCI-150 shall inquire of the division of criminal investigation via the Iowa on-line warrants and articles (IOWA) system as to whether the person about whom information was requested is registered with the Iowa sex offender registry. If the division of criminal investigation notifies the sheriff or police department that the person about whom inquiry is made is not on the registry, the sheriff or police department shall so notify the person who submitted the request. If the division of criminal investigation notifies the sheriff or police department that the subject about whom inquiry was made is a registrant with the Iowa sex offender registry, the sheriff or police department may notify the person making the inquiry that the subject about whom the inquiry was made is a registrant and may provide the requester with the relevant information regarding the registrant.

8.304(6) Submission of information to the National Sex Offender Registry. The division shall submit sex offender registry data as required to the National Sex Offender Registry of the Federal Bureau of Investigation.

8.304(7) Single contact repository. The division shall perform a search of the sex offender registry on an individual based on a request submitted through the single contact repository established pursuant to Iowa Code section 135C.33. The information provided from the registry shall be limited to whether the identified person is registered.

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8.304(8) No identification of victims. Any release of information regarding any registrant, other than to criminal or juvenile justice agencies, shall not identify any victim of the registrant.

ITEM 4. Amend **661—Chapter 8, Division III**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 692A as amended by 2004 Iowa Acts, Senate File 2298, Division XXV.

[Filed Emergency 7/13/04, effective 7/15/04]
[Published 8/4/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3563B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 25, "Housing Fund," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3336B** on May 12, 2004. The IDEB Board adopted these amendments on July 15, 2004.

The amendments make technical language changes and a number of substantive program changes. The changes raise the maximum assistance per unit up to \$50,000; raise the per project assistance to \$800,000 on rental projects; establish a \$500,000 maximum for single-family activities; and require minimum mortgage loan standards for home ownership activities using Housing Fund resources.

A public hearing was held on June 1, 2004. No comments concerning the proposed amendments were received from the public. For clarification, nonsubstantive technical changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code section 15.108(1)"a."

These amendments will become effective on September 8, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 25] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3336B**, IAB 5/12/04.

[Filed 7/15/04, effective 9/8/04]
[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3553B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby rescinds Chapter 12, "Criteria of Professional Practices," and Chapter 13, "Criteria of Competent Performance," and adopts new Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

Chapter 25 adopts rules for the code of professional conduct and ethics for educators that constitutes mandatory minimum standards of practice for all licensed practitioners as defined in Iowa Code chapter 272.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 28, 2004, as **ARC 3311B**. A public hearing on the amendments was held on May 18, 2004. No one attended the public hearing; however, written

comments were received from two professional organizations.

Three types of changes have been made to the amendments published under Notice. The rules regarding criminal convictions pursuant to Iowa Code section 272.2(14) have been aligned with the date of enactment, which is July 1, 2002. Grammar, punctuation, and editorial changes were made. The phrase "sexual orientation" was replaced with the phrase "membership in a definable minority" because courts, including the federal district court in Iowa, have held that the United States Constitution's equal protection clause prohibits discrimination based upon membership in a definable minority.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective September 8, 2004.

The following amendments are adopted.

ITEM 1. Rescind and reserve **282—Chapters 12 and 13**.

ITEM 2. Adopt the following **new** chapter:

CHAPTER 25**CODE OF PROFESSIONAL CONDUCT AND ETHICS**

282—25.1(272) Scope of standards. This code of professional conduct and ethics constitutes mandatory minimum standards of practice for all licensed practitioners as defined in Iowa Code chapter 272. The adherence to certain professional and ethical standards is essential to maintaining the integrity of the education profession.

282—25.2(272) Definitions. Except where otherwise specifically defined by law:

"Administrative and supervisory personnel" means any licensed employee such as superintendent, associate superintendent, assistant superintendent, principal, associate principal, assistant principal, or other person who does not have as a primary duty the instruction of pupils in the schools.

"Board" means the Iowa board of educational examiners.

"Discipline" means the process of sanctioning a license, certificate or authorization issued by the board.

"Ethics" means a set of principles governing the conduct of all persons governed by these rules.

"Fraud" means knowingly providing false information or representations on an application for licensure or employment, or knowingly providing false information or representations made in connection with the discharge of duties.

"License" means any license, certificate, or authorization granted by the board.

"Licensee" means any person holding a license, certificate, or authorization granted by the board.

"Practitioner" means an administrator, teacher, or other school personnel, who provides educational assistance to students and who holds a license, certificate, or other authorization issued by the board.

"Responsibility" means a duty for which a person is accountable by virtue of licensure.

"Right" means a power, privilege, or immunity secured to a person by law.

"Student" means a person, regardless of age, enrolled in a prekindergarten through grade 12 school, who is receiving direct or indirect assistance from a person licensed by the board.

"Teacher" means any person engaged in the instructional program for prekindergarten through grade 12 children, including a person engaged in teaching, administration, and su-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

pervision, and who is required by law to be licensed for the position held.

282—25.3(272) Standards of professional conduct and ethics. Licensees are required to abide by all federal, state, and local laws applicable to the fulfillment of professional obligations. Violation of federal, state, or local laws in the fulfillment of professional obligations constitutes unprofessional and unethical conduct which can result in disciplinary action by the board. In addition, it is hereby deemed unprofessional and unethical for any licensee to violate any of the following standards of professional conduct and ethics:

25.3(1) Standard I—conviction of crimes, sexual or other immoral conduct with or toward a student, and child and dependent adult abuse. Violation of this standard includes:

- a. Fraud. Fraud in the procurement or renewal of a practitioner's license.
- b. Criminal convictions. The commission of or conviction for a criminal offense as defined by Iowa law or the laws of any other state or of the United States, provided that the offense is relevant to or affects teaching or administrative performance.

(1) Disqualifying criminal convictions. The board shall deny an application for licensure and shall revoke a previously issued license if the applicant or licensee has, on or after July 1, 2002, been convicted of, has pled guilty to, or has been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:

1. Any of the following forcible felonies included in Iowa Code section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping;

2. Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:

- First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;
- Lascivious acts with a child;
- Detention in a brothel;
- Assault with intent to commit sexual abuse;
- Indecent contact with a child;
- Sexual exploitation by a counselor;
- Lascivious conduct with a minor; or
- Sexual exploitation by a school employee;

3. Incest involving a child as prohibited by Iowa Code section 726.2;

4. Dissemination and exhibition of obscene material to minors as prohibited by Iowa Code section 728.2; or

5. Telephone dissemination of obscene material to minors as prohibited by Iowa Code section 728.15.

(2) Other criminal convictions and founded child abuse. In determining whether a person should be denied a license or whether a licensee should be disciplined based upon any other criminal conviction, including a conviction for an offense listed in 25.3(1)“b”(1) which occurred before July 1, 2002, or a founded report of abuse of a child, the board shall consider:

1. The nature and seriousness of the crime or founded abuse in relation to the position sought;
2. The time elapsed since the crime or founded abuse was committed;
3. The degree of rehabilitation which has taken place since the crime or founded abuse was committed;
4. The likelihood that the person will commit the same crime or abuse again;
5. The number of criminal convictions or founded abuses committed; and

6. Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.

c. Sexual involvement or indecent contact with a student. Sexual involvement includes, but is not limited to, the following acts, whether consensual or nonconsensual: fondling or touching the inner thigh, groin, buttocks, anus or breasts of a student; permitting or causing a student to fondle or touch the practitioner's inner thigh, groin, buttocks, anus, or breasts; or the commission of any sex act as defined in Iowa Code section 702.17.

d. Sexual exploitation of a minor. The commission of or any conviction for an offense prohibited by Iowa Code section 728.12, Iowa Code chapter 709 or 18 U.S.C. Section 2252A(a)(5)(B).

e. Student abuse. Licensees shall maintain professional relationships with all students, both inside and outside the classroom. The following acts or behavior constitutes unethical conduct without regard to the existence of a criminal charge or conviction:

- (1) Committing any act of physical abuse of a student;
- (2) Committing any act of dependent adult abuse on a dependent adult student;
- (3) Committing or soliciting any sexual or otherwise indecent act with a student or any minor;
- (4) Soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student;
- (5) Furnishing alcohol or illegal or unauthorized drugs or drug paraphernalia to any student or knowingly allowing a student to consume alcohol or illegal or unauthorized drugs in the presence of the licensee; or
- (6) Failing to report any suspected act of child or dependent adult abuse as required by state law.

25.3(2) Standard II—alcohol or drug abuse. Violation of this standard includes:

a. Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming illegal or unauthorized drugs or abusing legal drugs.

b. Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming alcohol.

25.3(3) Standard III—misrepresentation, falsification of information. Violation of this standard includes:

a. Falsifying or deliberately misrepresenting or omitting material information regarding professional qualifications, criminal history, college credit, staff development credit, degrees, academic award, or employment history when applying for employment or licensure.

b. Falsifying or deliberately misrepresenting or omitting material information regarding compliance reports submitted to federal, state, and other governmental agencies.

c. Falsifying or deliberately misrepresenting or omitting material information submitted in the course of an official inquiry or investigation.

d. Falsifying any records or information submitted to the board in compliance with the license renewal requirements imposed under 282—Chapter 17.

e. Falsifying or deliberately misrepresenting or omitting material information regarding the evaluation of students or personnel, including improper administration of any standardized tests, including, but not limited to, changing test answers, providing test answers, copying or teaching identified test items, or using inappropriate accommodations or modifications for such tests.

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25.3(4) Standard IV—misuse of public funds and property. Violation of this standard includes:

- a. Failing to account properly for funds collected that were entrusted to the practitioner in an educational context.
- b. Converting public property or funds to the personal use of the practitioner.
- c. Submitting fraudulent requests for reimbursement of expenses or for pay.
- d. Combining public or school-related funds with personal funds.
- e. Failing to use time or funds granted for the purpose for which they were intended.

25.3(5) Standard V—violations of contractual obligations.

a. Violation of this standard includes:

(1) Signing a written professional employment contract while under contract with another school, school district, or area education agency.

(2) Asking a practitioner to sign a written professional employment contract before the practitioner has been unconditionally released from a current contract. An administrator shall make a good faith effort to determine whether the practitioner has been released from the current contract.

(3) Abandoning a written professional employment contract without prior unconditional release by the employer.

(4) As an employer, executing a written professional employment contract with a practitioner, which requires the performance of duties that the practitioner is not legally qualified to perform.

(5) As a practitioner, executing a written professional employment contract, which requires the performance of duties that the practitioner is not legally qualified to perform.

b. In addressing complaints based upon contractual obligations, the board shall consider factors beyond the practitioner's control. For purposes of enforcement of this standard, a practitioner will not be found to have abandoned an existing contract if:

(1) The practitioner obtained a release from the employing board before discontinuing services under the contract; or

(2) The practitioner provided notice to the employing board no later than the latest of the following dates:

1. The practitioner's last work day of the school year;
2. The date set for return of the contract as specified in statute; or
3. June 30.

25.3(6) Standard VI—unethical practice toward other members of the profession, parents, students, and the community. Violation of this standard includes:

a. Denying the student, without just cause, access to varying points of view.

b. Deliberately suppressing or distorting subject matter for which the educator bears responsibility.

c. Failing to make reasonable effort to protect the health and safety of the student or creating conditions harmful to student learning.

d. Conducting professional business in such a way that the practitioner repeatedly exposes students or other practitioners to unnecessary embarrassment or disparagement.

e. Engaging in any act of illegal discrimination, or otherwise denying a student or practitioner participation in the benefits of any program on the grounds of race, color, religion, age, sex, disability, marital status, national origin, or membership in a definable minority.

f. Soliciting students or parents of students to purchase equipment, supplies, or services from the practitioner for the practitioner's personal advantage.

g. Accepting gifts from vendors or potential vendors where there may be the appearance of or an actual conflict of interest.

h. Intentionally disclosing confidential information including, but not limited to, unauthorized sharing of information concerning student academic or disciplinary records, health and medical information, assessment or testing results, or family income. Licensees shall comply with state and federal laws and local school board policies relating to the confidentiality of student records, unless disclosure is required or permitted by law.

i. Refusing to participate in a professional inquiry when requested by the board.

j. Aiding, assisting, or abetting an unlicensed person in the completion of acts for which licensure is required.

k. Failing to self-report to the board within 60 days any founded child abuse report, or any conviction for a criminal offense listed in 25.3(1)"b"(1) which requires revocation of the practitioner's license.

l. Delegating tasks to unqualified personnel.

m. Failing to comply with federal, state, and local laws applicable to the fulfillment of professional obligations.

n. Allowing another person to use one's practitioner license for any purpose.

o. Performing services beyond the authorized scope of practice for which the individual is licensed or prepared.

25.3(7) Standard VII—compliance with state law governing student loan obligations and child support obligations. Violation of this standard includes:

a. Failing to comply with 282—Chapter 9 concerning repayment of student loans.

b. Failing to comply with 282—Chapter 10 concerning child support obligations.

25.3(8) Standard VIII—incompetence. Violation of this standard includes, but is not limited to:

a. Willfully or repeatedly departing from or failing to conform to the minimum standards of acceptable and prevailing educational practice in the state of Iowa.

b. Willfully or repeatedly failing to practice with reasonable skill and safety.

These rules are intended to implement Iowa Code section 272.2(1)"a."

[Filed 7/15/04, effective 9/8/04]

[Published 8/4/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3554B

**EDUCATIONAL EXAMINERS
BOARD[282]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby adopts Chapter 26, "Code of Rights and Responsibilities," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 7, 2004, as **ARC 3090B**. An amended Notice of Intended Action was published in the Iowa Administrative Bulletin on April 28, 2004, as

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ARC 3312B. Written comments were received from two professional educational organizations.

Two types of changes have been made to the amendments published under Notice. Grammar, punctuation, and editorial changes were made. The phrase "sexual orientation" was replaced with the phrase "membership in a definable minority" because courts, including the federal district court in Iowa, have held that the United States Constitution's equal protection clause prohibits discrimination based upon membership in a definable minority.

These rules are intended to implement Iowa Code section 272.2(1)"a."

These rules will become effective September 8, 2004.

The following **new** chapter is adopted.

CHAPTER 26

CODE OF RIGHTS AND RESPONSIBILITIES

282—26.1(272) Purpose. The code of professional conduct and ethics in 282—Chapter 25* defines unprofessional and unethical conduct justifying disciplinary sanction. The board acknowledges that the discharge of professional obligations should occur in recognition of certain fundamental rights and responsibilities. Accordingly, the board recognizes the following rights and responsibilities of all educators licensed under Iowa Code chapter 272 and agrees that the exercise of these rights and responsibilities may present mitigating facts and circumstances in the board's evaluation of allegations of unprofessional or unethical conduct.

282—26.2(272) Rights. Educators licensed under Iowa Code chapter 272 have the following rights:

1. The educator has a right to be licensed and endorsed under professional standards established and enforced by the board.

2. The educator has a right to refuse assignments for which the educator is not legally authorized, in terms of holding a valid Iowa license with the appropriate endorsement(s) or approval(s).

3. The educator has a right, subject to board and administrator authority, to exercise professional judgment in the evaluation, selection, and use of teaching methods and instructional materials appropriate to the needs, abilities, and background of each student.

282—26.3(272) Responsibilities. Educators licensed under Iowa Code chapter 272 have the following responsibilities:

1. The educator has a responsibility to maintain and improve the educator's professional competence.

2. The educator has a responsibility to accept only those assignments for which the educator is legally authorized.

3. The educator has a responsibility to provide conditions that are conducive to teaching and student learning.

4. The educator shall protect students from conditions harmful to learning or to health or safety.

5. The educator shall not, without just cause, restrain a student from independent action in the pursuit of learning and shall not, without just cause, deny a student access to varying points of view.

6. The educator shall not use professional relationships with students for personal advantage.

7. The educator shall not discriminate against any student on the grounds of national or ethnic origin, religion, age, sex, disability, membership in a definable minority, or marital status, nor grant any discriminatory consideration or advantage.

* See **ARC 3553B** herein.

8. The educator shall accord just and equitable treatment to all members of the profession.

9. The educator shall keep in confidence personally identifiable information regarding a student or the student's family members that has been obtained in the course of professional service, unless disclosure is required by law or is necessary for the personal safety of the student or others.

10. The educator who has reasonable basis to believe that a student has been abused, as defined by law, shall make all reports required by law and the Iowa Administrative Code and which are necessary to ensure the safety and well-being of the student.

11. In the administration of discipline, the educator shall treat all students with respect and in compliance with all policies of the school district served by the educator.

12. The educator shall provide accurate, truthful, and complete information to the board and to the local education system concerning all licensure transactions.

13. The educator shall not refuse to participate in a professional inquiry, when requested by the board.

14. The educator shall not require or direct another educator to violate any provisions of the code of professional conduct and ethics or any rights of a student, parent, educator or citizen.

15. The educator shall not delegate tasks to unqualified personnel.

These rules are intended to implement Iowa Code section 272.2(1)"a."

[Filed 7/15/04, effective 9/8/04]

[Published 8/4/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3544B**HOMELAND SECURITY AND
EMERGENCY MANAGEMENT
DIVISION[605]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 34A.22, the Homeland Security and Emergency Management Division amends Chapter 10, "Enhanced 911 Telephone Systems," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3390B**. No public comment was received on these amendments. In addition, these amendments were simultaneously Adopted and Filed Emergency as **ARC 3391B**. These amendments are identical to the amendments published under Notice of Intended Action and Adopted and Filed Emergency.

These amendments provide for the increase in the wireless E911 surcharge rate from \$0.50 to \$0.65 per wireless telephone per month as passed by the 80th General Assembly in 2004 Iowa Acts, Senate File 2298, section 453, and signed by the Governor on May 17, 2004.

These amendments shall become effective September 8, 2004, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

These amendments are intended to implement Iowa Code section 34A.7A as amended by 2004 Iowa Acts, Senate File 2298, section 453.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [10.8(1), 10.8(4), 10.8(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 3390B** and Adopted and Filed Emergency as **ARC 3391B**, IAB 6/9/04.

[Filed 7/15/04, effective 9/8/04]
[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3555B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

The adopted amendments update the Department's rules pertaining to Critical Access Hospitals (CAHs) to include changes made in the federal Medicare Modernization Act. The adopted amendments increase the allowable maximum number of beds in a CAH from 15 to 25 regardless of swing-bed approval, and make a corresponding technical change in a reference date for the citation of the Medicare conditions of participation for a CAH.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3392B**. No comments were received on the amendments. The adopted amendments are identical to those published under Notice of Intended Action.

The adopted amendments were approved by the Hospital Licensing Board on March 31, 2004, and initially reviewed by the State Board of Health at its May 12, 2004, meeting. The adopted amendments were presented to and approved by the State Board of Health at its July 14, 2004, meeting.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135B.7.

These amendments will become effective September 8, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 51.53(4) as follows:

51.53(4) The hospital shall maintain no more than 15 25 acute care inpatient beds ~~or, in the case of a hospital having a swing-bed agreement, no more than 25 inpatient beds; and the number of beds used for acute inpatient services shall not exceed 15 beds.~~

ITEM 2. Amend subrule 51.53(5) as follows:

51.53(5) The hospital shall meet the Medicare conditions

of participation as a critical access hospital as described in 42 CFR Part 485, Subpart F, as of October 1, 2002 2003.

[Filed 7/15/04, effective 9/8/04]
[Published 8/4/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3560B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1), 16.5(17), 16.91(5) and 16.91(8), the Iowa Finance Authority hereby amends Chapter 9, "Title Guaranty Division," Iowa Administrative Code.

This rule making rescinds rules 265—9.1(16) through 265—9.19(16) and adopts new rules 265—9.1(16) through 265—9.15(16) concerning the Title Guaranty Division. The new rules detail the mission, organization, program and operations of the Title Guaranty Division of the Iowa Finance Authority, including the office where and the means by which interested persons may obtain information and make submission or requests. The existing rule 265—9.20(78GA, ch54), concerning the mortgage release certificate program, and rule 265—9.21(16), concerning the seal, are not amended as part of this rule-making action.

Notice of Intended Action was published in the April 28, 2004, Iowa Administrative Bulletin as **ARC 3322B**. No public comment was received on these amendments. The adopted amendments are identical to those published under Notice of Intended Action.

The Authority adopted these amendments on July 7, 2004.

These amendments will become effective on September 8, 2004.

These amendments are intended to implement Iowa Code sections 17A.3(1), 16.5(17), 16.91(5) and 16.91(8).

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [rescind 9.1 to 9.19, adopt 9.1 to 9.15] is being omitted. These amendments are identical to those published under Notice as **ARC 3322B**, IAB 4/28/04.

[Filed 7/15/04, effective 9/8/04]
[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3565B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 148E.7, the Board of Medical Examiners hereby amends Chapter 8, "Fees," Chapter 9, "Permanent Physician Licensure," Chapter 10, "Resident, Special and Temporary Physi-

MEDICAL EXAMINERS BOARD[653](cont'd)

cian Licensure,” and Chapter 12, “Mandatory Reporting and Grounds for Discipline,” Iowa Administrative Code.

The Board adopted the amendments during a telephone conference call on July 15, 2004.

The amendments require applicants for licensure to submit a completed fingerprint packet and fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa Division of Criminal Investigation (DCI) and the Federal Bureau of Investigation (FBI). The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2. The amendment applies to those seeking initial permanent physician licensure, resident physician licensure, special physician licensure or temporary licensure for emergency purposes, or reinstatement of a permanent license. A completed fingerprint packet is not required if the applicant has held any active physician licensure in Iowa within 12 months of applying for a permanent license and the applicant had submitted fingerprints prior to the issuance of that earlier Iowa license.

If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the Board office’s last documented request for further information, the application shall be considered inactive and the applicant is required to submit a new application, documents, credentials and fees, including the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks. If an applicant is granted a license but the fingerprints are determined to be unacceptable, the licensee is required to submit another fingerprint card and application fee within 30 days of the request or face licensee discipline.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3420B**. No public comment was received on these amendments. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code sections 8.2, 147.76, 147.80, 272C.3 and 272C.4.

These amendments will become effective September 8, 2004.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 8 to 10, 12] is being omitted. These amendments are identical to those published under Notice as **ARC 3420B**, IAB 6/9/04.

[Filed 7/16/04, effective 9/8/04]
[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3575B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11 and 2004 Iowa Acts, House File 2362, section 9, the Department of Public Health amends Chapter 4, “Birth Defects Institute,” Iowa Administrative Code.

These amendments are intended to make the rules consistent with statutory changes made pursuant to 2004 Iowa Acts, House File 2362, including the renaming of the Birth Defects Institute as the Center for Congenital and Inherited

Disorders. The amendments also detail the sharing of information and confidentiality of the Iowa Neonatal Metabolic Screening Program records and reports, modify the neonatal metabolic specimen retention policy and rename the Iowa Birth Defects Registry as the Iowa Congenital and Inherited Disorders Registry.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3412B**. A public hearing was held over the Iowa Communications Network (ICN) on June 29, 2004.

The Birth Defects Registry and the University Hygienic Laboratory provided public comment. Nonsubstantive changes were made in rules 641—4.1(80GA, HF2362) and 641—4.7(80GA, HF2362) to change the new name of the Iowa Birth Defects Registry to “Iowa Registry for Congenital and Inherited Disorders,” wherever it appears. An additional change was made to subrule 4.3(8) to establish January 1, 2005, as the implementation date for these rule changes. This change was due to the fact that the central laboratory is moving into a new facility and at that time will have the new equipment to implement these procedures. The introductory paragraph of subrule 4.3(8) now reads as follows:

“**4.3(8)** Retention, use and disposition of residual neonatal metabolic screening specimens. Beginning January 1, 2005, the following policy shall be implemented.”

The State Board of Health adopted these amendments on July 14, 2004.

These amendments will become effective on September 8, 2004.

These amendments are intended to implement 2004 Iowa Acts, House File 2362.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 4] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3412B**, IAB 6/9/04.

[Filed 7/16/04, effective 9/8/04]
[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3574B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.102, the Department of Public Health hereby adopts new Chapter 68, “Control of Lead-Based Paint Hazards,” Iowa Administrative Code.

The new chapter implements Iowa Code section 135.102, which directs the Department to adopt model regulations for lead hazard remediation to be used in instances in which a child is confirmed as lead poisoned. Iowa Code section 135.102 also directs the Department to make the model regulations available to local boards of health and to promote the adoption of the regulations at the local level, in cities and counties implementing lead hazard remediation programs.

The Department developed the new chapter after consulting with property owners, real estate agents, and local health

PUBLIC HEALTH DEPARTMENT[641](cont'd)

departments. The new chapter is consistent with Chapter 70, "Lead-Based Paint Activities," Iowa Administrative Code, and with federal standards set by the U.S. Environmental Protection Agency and the U.S. Department of Housing and Urban Development for control of lead-based paint hazards. The provisions of Chapter 68 are applicable only in jurisdictions in which a local board has adopted this chapter for the purpose of requiring control of lead-based paint hazards where a child has been identified with an elevated blood lead level. Nothing in this chapter shall be construed as requiring a local board to adopt this chapter as a model regulation.

The Department has determined that this chapter is not subject to waiver or variance because the Department cannot require a local board of health to adopt or enforce this chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 26, 2004, as **ARC 3373B**. A public hearing was held over the Iowa Communications Network on June 15, 2004. The Department did not receive any comments. However, the Department is making the following changes to the Notice as a result of internal staff review of the Notice:

1. In the definition of "owner," the verb "shall have" has been changed to "has" in both parts of the definition. The definition now reads as follows:

"Owner" means any person who, alone or jointly with others: (1) has legal title to any dwelling, with or without accompanying actual possession thereof, or (2) has charge, care or control of any dwelling by acting as the agent of the owner or as the executor, administrator, trustee, or guardian of the estate of the owner."

2. In subrule 68.6(2), first sentence, the phrase "An action taken against the occupant shall not be considered retaliation" has been changed to "An action taken against the lessee shall not be considered retaliation." The subrule now reads as follows:

"**68.6(2)** An action taken against the lessee shall not be considered retaliation if it is supported by reasonable cause unrelated to the testing of an occupant for lead poisoning or if it is shown to have occurred as a result of an accident or mistake and not to be the intentional act of the lessor of a dwelling, the employees of the lessor, or agents or persons acting on behalf of the lessor."

3. Rule 641—68.9(135) has been reworded to clarify that variances may be issued only for chewable surfaces and not for any other surfaces meeting the definition of hazardous lead-based paint. The rule now reads as follows:

"**641—68.9(135) Variances.** The elevated blood lead (EBL) inspector/risk assessor may determine that a chewable surface that would otherwise be identified as a hazard by this chapter is not causing or does not have reasonable potential to cause lead exposure and is not required to be corrected through lead hazard reduction. The elevated blood lead (EBL) inspector/risk assessor shall document the reason for this determination in the inspection report. However, the elevated blood lead (EBL) inspector/risk assessor shall not, under any circumstances, determine that any other surface meeting the definition of hazardous lead-based paint does not need to be corrected through lead hazard reduction."

The State Board of Health adopted this chapter on July 14, 2004.

These rules will become effective on September 8, 2004.

These rules are intended to implement Iowa Code section 135.102.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 68] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 3373B**, IAB 5/26/04.

[Filed 7/16/04, effective 9/8/04]

[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3576B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 73, "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)," Iowa Administrative Code.

The purpose of amending Chapter 73 is to update the language and definitions for consistency with the federal guidelines for the Special Supplemental Nutrition Program for Women, Infants, and Children, anticipated changes, and the implementation of a new WIC data system by September 2005.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 26, 2004, as **ARC 3371B**. No public comment was received. The names of the Division and the Bureau in the Department of Public Health have been changed since publication of the Notice. The former Division of Community Health is now the Division of Health Promotion and Chronic Disease Prevention. The former Bureau of Nutrition is now the Bureau of Nutrition and Health Promotion.

The State Board of Health adopted these amendments on July 14, 2004.

These amendments will become effective September 8, 2004.

These amendments are intended to implement Iowa Code section 135.11.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 73] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3371B**, IAB 5/26/04.

[Filed 7/16/04, effective 9/8/04]

[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3577B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 135.24, the Department of Public Health hereby amends Chapter 88, "Volunteer Health Care Provider Program," Iowa Administrative Code.

The rules in Chapter 88 describe the eligibility of free clinics and health care providers, providing free health care services through qualified programs, to be defended and indemnified by the State of Iowa. These amendments provide eligibility to nurses practicing in Iowa under the Nurse Licensure Compact, increase application requirements for free clinics applying for defense and indemnification, and expand coverage for participants to include claims involving the volunteer health care provider solely on the basis of the health care provider's participation in the free clinic.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 26, 2004, as **ARC 3372B**. A public hearing was held on June 15, 2004. One public comment was received. The Iowa Medical Society expressed support for the amendments. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on July 14, 2004.

These amendments will become effective on September 8, 2004.

These amendments are intended to implement Iowa Code Supplement section 135.24.

The following amendments are adopted.

ITEM 1. Amend rule **641—88.1(135)**, definition of "volunteer health care provider," as follows:

"Volunteer health care provider" means a physician licensed pursuant to Iowa Code chapter 148, 150 or 150A; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a chiropractor licensed pursuant to Iowa Code chapter 151; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; or a pharmacist licensed pursuant to Iowa Code chapter 155A, who has executed an eligibility agreement with the VHCPP.

ITEM 2. Amend subrule **88.3(1)**, paragraph "a," introductory paragraph, as follows:

a. The applicant shall hold an active unrestricted license to practice in Iowa under Iowa Code chapter 148, 148C, 150, 150A, 151, 152, 152E, 153, 154B, 154C, 154D, or 155A. The applicant shall provide a sworn statement attesting that the license to practice is free of restrictions. The statement shall describe any disciplinary action that has ever been taken against the health care provider by any professional licensing authority or health care facility, including any voluntary surrender of license or other agreement involving the health care provider's license to practice or any restrictions on practice,

suspension of privileges, or other sanctions. The statement shall also describe any malpractice suits that have been filed against the health care provider. The statement provided by a pharmacist volunteer health care provider shall also describe any disciplinary action that has ever been taken against any pharmacy in which the pharmacist has ever been owner, partner, or officer.

ITEM 3. Amend subrule **88.3(2)**, paragraphs "b" and "c," as follows:

b. The free clinic shall provide a list of all health care providers who ~~volunteer~~ *provide health care services* at the clinic.

c. The free clinic shall submit proof that each health care professional ~~volunteering~~ *providing health care services* at the free clinic either:

(1) Holds a current eligibility agreement with the VHCPP, or

(2) Holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 148, 148C, 150, 150A, 151, 152, 152E, 153, 154B, 154C, 154D, or 155A.

ITEM 4. Amend rule 641—88.5(135), introductory paragraph, as follows:

641—88.5(135) Covered health care services. A volunteer health care provider holding a current eligibility agreement with the VHCPP shall be afforded the protection of an employee of the state under Iowa Code chapter 669, and a free clinic holding a current eligibility agreement with the VHCPP shall be afforded protection as an agency of the state under Iowa Code chapter 669, only for claims for injury *alleged to have been* proximately caused by a health care provider's provision of covered health care services *or solely on the basis of the health care provider's participation in the free clinic.*

ITEM 5. Amend subrule 88.6(1) as follows:

88.6(1) The claim involves injury *alleged to have been* proximately caused by covered health care services which were identified and approved in the eligibility agreement with the VHCPP and then only to the extent the health care services were provided by or under the direct supervision of the volunteer health care provider, including claims based on negligent delegation of health care *or the volunteer health care provider is named as a defendant solely because of the volunteer health care provider's participation in the free clinic.*

[Filed 7/16/04, effective 9/8/04]

[Published 8/4/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3551B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on July 13, 2004, adopted amendments to Chapter 116, "Junkyard Con-

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trol,” and Chapter 117, “Outdoor Advertising,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the May 26, 2004, Iowa Administrative Bulletin as **ARC 3363B**.

2003 Iowa Acts, chapter 8, sections 1 to 4, limit the Department’s regulation of junkyards under Iowa Code chapter 306C, division I, to interstate highways only. Items 1 to 3 make conforming amendments to Chapter 116.

Iowa Code subsection 306B.2(4) previously allowed billboards to be erected in the adjacent area of interstate highways only if the billboards were located:

- In commercial or industrial zones within the boundaries of cities as these boundaries existed on September 21, 1959, or
- In other areas where the land use on September 21, 1959, was clearly established by law for industrial or commercial purposes.

2002 Iowa Acts, chapter 1070, section 1, amended Iowa Code subsection 306B.2(4). This legislation, which became effective July 1, 2004, struck the 1959 language and replaced it with language that allows billboards to be erected in the adjacent area of interstate highways if the billboards are located in areas zoned and used for commercial or industrial purposes.

Chapter 117 is amended to implement 2002 Iowa Acts, chapter 1070, to clarify certain rules, to eliminate redundancies, and to rewrite archaic language.

Item 4 adds a definition for “area zoned and used for commercial or industrial purposes.” This is the statutory definition. It is being added to the rules to eliminate any possible confusion with the standard for freeway-primary and primary highways, which remains a location in a zoned or unzoned commercial or industrial area.

Item 4 also amends the definition of “on-premises sign” to state that an “on-premises sign” and “on-property sign” have the same meaning.

Item 5 adds a paragraph to explain what advertising devices are allowable beyond the adjacent area of highways in unincorporated areas of the state. This is a statutory requirement. It is being added to assist the reader in understanding the rules.

Item 6 revises rule 761—117.4(306B,306C) to eliminate subrule 117.4(5), which contains language pertaining to the 1959 boundaries that were applicable to billboards adjacent to interstate highways. The amended language in Item 6 also reflects the scope of the revised rule.

Item 7 eliminates unnecessary verbiage.

Item 8 clarifies that certain billboards in existence prior to July 1, 1972, are allowed to remain in existence.

Item 9 strikes language pertaining to the 1959 boundaries that were applicable to billboards adjacent to interstate highways. Item 9 also adds the location standard for interstate highways and eliminates unnecessary or confusing verbiage.

Item 10 corrects a cross reference to rule 761—117.4(306B,306C) and updates archaic language.

These amendments do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapters 306B and 306C.

These amendments will become effective September 8, 2004.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [116.1, 116.2, 116.3(1), 117.1, 117.3(1)“m,” 117.4, 117.5, 117.5(1)“a,” 117.5(5)“b,” “c” and “d,” 117.6] is being omitted. These amendments are identical to those published under Notice as **ARC 3363B**, IAB 5/26/04.

[Filed 7/13/04, effective 9/8/04]
[Published 8/4/04]

[For replacement pages for IAC, see IAC Supplement 8/4/04.]

ARC 3550B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on July 13, 2004, adopted amendments to Chapter 401, “Special Registration Plates,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the May 12, 2004, Iowa Administrative Bulletin as **ARC 3332B**.

Rule 761—401.9(321) is being revised to implement 2003 Iowa Acts, chapter 105. This legislation changed the criteria for issuance of firefighter plates. Formerly, current or former members of fire departments were eligible to apply for firefighter plates. Under the legislation, only current members and retired members are eligible.

Definitions are added for “current” and “retired.” A current member must have a minimum of one year of service. A retired member must have ten years of service.

The amended rule defines “fire officer” and requires the signatures of both the fire chief and fire officer on the application form. The signatures must be original and notarized. The fire officer is second in command to the fire chief.

A current member who has firefighter plates will be required to submit a new application to renew the plates.

A new application will not be required in order to renew firefighter plates issued to a retired member if the initial application for firefighter plates is made after January 1, 2005. For firefighter plates issued to a retired member prior to January 1, 2005, a new application will be required in order to renew the firefighter plates until the plates have been renewed once after January 1, 2005.

These amendments do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code Supplement section 321.34.

These amendments will become effective September 8, 2004.

Rule-making actions:

ITEM 1. Amend rule 761—401.9(321) as follows:

761—401.9(321) Firefighter plates.

401.9(1) *Initial application for firefighter plates.* Application for firefighter plates shall be submitted to the de-

TRANSPORTATION DEPARTMENT[761](cont'd)

partment on a form prescribed by the department. ~~The Both the fire chief and another fire officer~~ of the paid or volunteer fire department shall sign the application form, certifying that the applicant is a current or ~~former retired~~ member of the fire department. ~~If the chief cannot certify that the applicant is a former member, a person who has knowledge of the applicant's membership shall sign the application certifying that fact.~~ *The signatures must be original and notarized. If the fire chief and fire officer deny an application, the department may conduct an investigation and make a determination to approve or deny the application.*

401.9(2) Renewal of firefighter plates for a current member. *A new application is required in order to renew firefighter plates issued to a current member. The application shall be submitted to the county treasurer's office.*

401.9(3) Renewal of firefighter plates for a retired member.

a. A new application is not required in order to renew firefighter plates issued to a retired member if the initial application for firefighter plates is made after January 1, 2005.

b. For firefighter plates issued to a retired member prior to January 1, 2005, a new application is required in order to renew firefighter plates until the plates have been renewed once after January 1, 2005. The application shall be submitted to the county treasurer's office.

401.9(2) 401.9(4) Plates. Firefighter plates are limited to five characters. Personalized plates are not available.

401.9(5) Definitions. *The following definitions apply to this rule:*

"Current" means a member who has at least one year of service and is in good standing, as determined by the fire chief.

"Fire officer" means a member of the same fire department as the applicant and who is second in command to the fire chief.

"Retired" or "officially retired" means a former member who has a minimum of ten years' total service in good standing, as determined by the fire chief.

ITEM 2. Amend **761—Chapter 401**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 35A.11, 321.34, 321.166 and 321L.1 and 1999 Iowa Acts, House File 200, House File 737, section 8, and Senate File 462, section 15.

[Filed 7/13/04, effective 9/8/04]

[Published 8/4/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/4/04.

ARC 3567B

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 476.1, 476.2, 476.4, 476.6 and 17A.4, the Utilities Board (Board) gives notice that on July 16, 2004, the Board issued an order in Docket No. RMU-04-3, In re: Revisions to Purchased Gas Adjustment and Reserve Margin Rules [199 IAC 19.10(476) and 19.16(476)], "Order Adopting Amendments." The Board is amending its rules on purchased gas adjustments and reserve

margins to update the provisions and allow the natural gas utilities more flexibility in filing for recovery of natural gas costs.

Notice of Intended Action was published in IAB Vol. XXVI, No. 25 (6/9/04) p. 1951, as **ARC 3410B**. Comments concerning the proposed amendments were filed by the Consumer Advocate Division of the Department of Justice; Interstate Power and Light Company; Aquila, Inc., d/b/a Aquila Networks; Atmos Energy Corporation; and MidAmerican Energy Company. An oral presentation was held on July 6, 2004. The Board's order adopting the amendments can be found on the Board's Web site, www.state.ia.us/iub, or in hard copy in the Board's Record Center, 350 Maple Street, Des Moines, Iowa 50319-0069.

The Board made one significant change to the proposed amendments to the purchased gas adjustment rules by moving the filing requirements to support hedging tools from the annual filing in subrule 19.10(2) to the annual reconciliation filing in subrule 19.10(7). The Board made two substantive revisions to the proposed amendments to the reserve margin rules based upon the comments. The Board retained the use of liquefied natural gas delivery capacity in calculating contract services but allowed a utility to use planned delivery instead of maximum delivery capability. The Board also retained the current percentages for a reasonable reserve capacity instead of reducing the percentages as proposed. The Board determined that lower percentages should not be adopted until it had some experience reviewing the forecasts of the utilities.

These amendments are intended to implement Iowa Code sections 476.1, 476.2, 476.4, 476.6, and 17A.4.

These amendments will become effective September 8, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 19.10(1) as follows:

19.10(1) Purchased gas adjustment clause. Purchased gas adjustments shall be computed separately for each customer classification or grouping previously approved by the board. Purchased gas adjustments shall use the same unit of measure as the utility's tariffed rates. Purchased gas adjustments shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (N \times Rn) + (Z \times Rz)}{S} + Rb + E - K$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased or transported for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, *including appropriate hedging tools costs*, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable gas or transportation demand entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable demand rates entitlement reservation charges to be in effect September 1 corresponding to purchases D.

N is the total quantity of applicable annual entitlement to meet sales, S, for each customer classification or grouping.

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R_n is the weighted average of applicable entitlement rates to be in effect September 1 corresponding to annual entitlement quantity N .

Z is the total quantity of applicable storage service purchases required to meet sales, S , for each customer classification or grouping.

R_z is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z .

R_b is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, *including storage*, for the months of October through August one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.10(7).

K is the base cost of gas as set forth in the utility's tariff.

The components of the formula shall be determined as follows for each *customer classification or grouping*:

a. The actual sales volumes S for the prior 12-month period ending June 30 May 31, with the necessary degree-day adjustments, and further adjustments approved by the board.

Unless a utility receives prior board approval to use another methodology, a utility shall use the same weather normalization methodology used in prior approved PGA and rate case.

b. The annual expected lost and unaccounted for factors shall be calculated by determining the actual difference between sales and purchases *purchase volumes* for the prior PGA year 12 months ending May 31 or from the current annual IG-1 filing, but in no case will this factor be less than 0.

c. The purchases C , D , N and Z which will be necessary to meet requirements as determined in 19.10(1).

d. The purchased gas adjustments shall be adjusted prospectively to reflect the final decision issued by the board in a periodic review proceeding.

ITEM 2. Amend subrule 19.10(2) as follows:

19.10(2) Annual purchased gas adjustment filing. Each rate-regulated utility shall file on or before August 1 of each year, for the board's approval, a purchased gas adjustment for the 12-month period beginning September 1 of that year.

The annual filing shall restate each factor of the formula stated in subrule 19.10(1).

The annual filing shall be based on customer classifications and groupings previously approved by the board unless new classifications or groupings are proposed.

The annual filing shall include all worksheets and detailed supporting data used to determine the purchased gas adjustment volumes and factors ~~including sales and purchase data from bills, invoices, internal reports and supplier and customer contracts~~. *The utility shall provide an explanation of the calculations of each factor.* Information already on file with the board may be incorporated by reference in the filing.

ITEM 3. Amend subrule 19.10(3) as follows:

19.10(3) Periodic changes to purchased gas adjustment clause. Periodic purchased gas adjustment filings shall be based on the purchased gas adjustment customer classifications and groupings previously approved by the board. Changes in the customer classification and grouping on file are not automatic and require prior approval by the board.

Periodic filings shall include all worksheets and detailed supporting data used to determine the amount of the adjustment.

Changes in factors S or C may not be made in periodic purchased gas filings except to recognize changes between pipeline and nonpipeline purchases. A change in factors D , N , or Z may be made in periodic filings and will be deemed approved if it conforms to the annual purchased gas filing or if it conforms to the principles set out in 19.10(5) and 19.10(6).

The utility shall implement automatically all purchased gas adjustment changes which result from changes in R_c , R_d , R_n , or R_z equal to or greater than .5 cents per ccf or term immediately with concurrent board notification with adequate information to calculate and support the change. Purchased gas adjustment changes of less than .5 cents per ccf or term shall be required with concurrent board notification if the last purchased gas adjustment change occurred 30 days or more prior to the change. The purchased gas adjustment shall be calculated separately for each customer classification or grouping.

Unless otherwise ordered by the board, a rate-regulated utility's purchased gas adjustment rate factors shall be adjusted as purchased gas costs change and shall recover from the customers only the actual costs of purchased gas and other currently incurred charges associated with the delivery, inventory, or reservation of natural gas. Such periodic changes shall become effective with usage on or after the date of change.

~~If a supplier's entitlement charge is zero, the same percentage of current demand charges shall be allocated to each customer class or grouping as the average demand charges allocated during the last 12-month period for which entitlement rates were not zero. "Current demand charges" means the amount ($D \times R_d$) used in computing the formula set out in 19.10(1).~~

ITEM 4. Amend subrule 19.10(4) as follows:

19.10(4) Factor R_b . Starting with the 1993-1994 PGA year, each company *Each utility* has the option of filing an R_b calculation with its October-January PGA filings but will be required to *shall* file an R_b calculation with its February filing and subsequent monthly filings in the PGA year. ~~If anticipated revenues exceed or fall short of anticipated costs by more than one-half of 1 percent, the PGA adjustment necessary to obtain the anticipated balance shall constitute the amount to be reflected as factor R_b in the PGA calculation. The adjustment shall be for services rendered in the remaining months of the same PGA year unless a subsequent determination under this paragraph requires a change.~~ If the anticipated PGA balance represents costs in excess of revenues, factor R_b shall be assigned a positive value; if the anticipated balance represents revenues in excess of costs, factor R_b shall be assigned a negative value.

ITEM 5. Amend subrule 19.10(6) as follows:

19.10(6) Allocations of changes in contract demand *pipeline transportation capacity* obligations. Any change in contractual demand *pipeline transportation capacity* obligations to pipelines or other gas suppliers to transportation or storage service providers serving Iowa must be reported to the board within 30 days of receipt. The change must be applied on a pro-rata basis to all customer classifications or groupings, unless another method has been approved by the board. Where a change has been granted as a result of the utility's request based on the needs of specified customers, that change may be allocated to the specified customers. Where the board has approved anticipated sales levels for one or more customer classifications or groupings, those levels may

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limit the pro-rata reduction for those classifications or groupings.

ITEM 6. Amend subrule 19.10(7) as follows:

19.10(7) Reconciliation of underbillings and overbillings. The utility shall file with the board on or before October 1 of each year a purchased gas adjustment reconciliation for the 12-month period which began on September 1 of the previous year. This reconciliation shall be the actual net invoiced costs of purchased gas *and appropriate financial hedging tools costs* less the actual revenue billed through its purchased gas adjustment clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation shall be considered overbilling by the utility and positive differences shall be considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular purchased gas adjustment clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

~~The take-or-pay reconciliation shall be the actual net invoiced costs of take-or-pay less the actual revenue billed through its take-or-pay factors for each customer class or grouping. Actual net costs for take-or-pay shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.~~

a. *The annual reconciliation filing shall include the following information concerning the hedging tools used by the utility:*

- (1) *The type and volume of physical gas being hedged.*
- (2) *The reason the hedge was undertaken (e.g., to hedge storage gas, a floating price contract).*
- (3) *A detailed explanation of the hedging strategy (e.g., costless collar, straddled costless collar, purchasing or selling options).*
- (4) *The date the futures contract or option was purchased or the date the swap was entered into.*
- (5) *The spot price of gas at the time the hedge was made, including an explanation of how the spot price was determined including the index or indices used.*
- (6) *The amount of all commissions paid and to whom those payments were made.*
- (7) *All administrative costs associated with the hedge.*
- (8) *The name(s) of all marketers used and the amount of money paid to each marketer.*
- (9) *The amount of savings or costs resulting from the hedge.*
- (10) *The amount of money tied up in margin accounts for futures trading and the cost of that money.*
- (11) *The premium paid for each option.*
- (12) *The strike price of each option.*
- (13) *The contracting costs for each swap transaction.*
- (14) *The name of the fixed-price payer in a swap transaction.*
- (15) *A statement as to how the hedge is consistent with the LDC's natural gas procurement plan.*
- (16) *An explanation as to why the LDC believes the hedge was in the best interest of general system customers.*
- (17) *All invoices, work papers, and internal reports associated with the hedge.*

a b. Any underbilling determined from the reconciliation shall be collected through ten-month adjustments to the appropriate purchased gas adjustment. The underbilling generated from each purchased gas adjustment clause shall be di-

vided by the anticipated sales volumes for the prospective ten-month period beginning November 1 (based upon the sales determination in subrule 19.10(1)).

The quotient, determined on the same basis as the utility's tariff rates, shall be added to the purchased gas adjustment for the prospective ten-month period beginning November 1.

~~Any underbillings determined from the take-or-pay reconciliation shall be collected through ten-month adjustments to appropriate take-or-pay adjustment. The underbilling shall be divided by the anticipated sales volumes or transport volumes for the prospective ten-month period beginning November 1 (based upon the volumes determined in subrule 19.10(5)).~~

~~The quotient, determined on the same basis as the utility's tariff rates, shall be added to the take-or-pay factor for the prospective ten-month period beginning November 1.~~

b c. Any overbilling determined from the reconciliation shall be refunded to the customer classification or PGA grouping from which it was generated. The overbilling shall be divided by the annual cost of purchased gas subject to recovery for the 12-month period which began the prior September 1 for each purchased gas adjustment clause and applied as follows:

(1) If the net overbilling from the purchased gas adjustment reconciliation exceeds 3 percent of the annual cost of purchased gas subject to recovery for a specific *customer classification or PGA* grouping, the utility shall refund the overbilling by bill credit or check for the time period beginning ~~starting on the first day of billing in the~~ November ~~+~~ *billing cycle* of the current year to the date of refunding. The minimum amount to be refunded by check shall be \$10. Interest shall be calculated on amounts exceeding 3 percent from the PGA year midpoint to the date of refunding. The interest rate shall be the *dealer* commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the purchased gas adjustment reconciliation does not exceed 3 percent of the annual cost of purchased gas subject to recovery for a specific *customer classification or PGA* grouping, the utility may refund the overbilling by bill credit or check for the time period beginning ~~starting on the first day of billing in the~~ November ~~+~~ *billing cycle* of the current year to the date of refunding, or the utility may refund the overbilling through ten-month adjustments to the particular purchased gas adjustment from which they were generated. The minimum amount to be refunded by check shall be \$10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.10(1) for the applicable purchased gas adjustment clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular purchased gas adjustment for the prospective ten-month period beginning November 1.

~~c. Any overbilling determined from the reconciliation of a TPA shall be refunded to the customer classification or TPA grouping from which it was generated. The 3 percent refund rule described in subparagraphs 19.10(7)"b"(1) and (2) shall also apply to the take-or-pay reconciliation. The overbilling shall be divided by the anticipated sales volumes or transport volumes for the prospective ten-month period beginning November 1 (based upon the volumes determined in subrule 19.10(5)). The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular~~

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take-or-pay adjustment for the prospective ten-month period beginning November 1.

d. If the 3 percent refund rule described in subparagraph 19.10(7)“b”(1) requires an immediate refund for either the PGA or the TPA, the reconciliation results of the two adjustments may be netted. The volumes involved with the PGA and TPA must be the same. The 3 percent refund rule described in subparagraphs 19.10(7)“b”(1) and (2) shall also apply to the netted PGA and TPA reconciliation results. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular netted purchased gas adjustment and take-or-pay adjustment for the prospective ten-month period beginning November 1.

e d. When a customer has reduced or terminated system supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

ITEM 7. Amend subrule 19.10(8) as follows:

19.10(8) Refunds from gas suppliers related to gas costs charged through the PGA. The utility shall file a refund plan with the board within 30 days of the receipt of any refund related to gas costs charged through the PGA.

a. The utility shall refund to customers by bill credit or check an amount equal to any refund received from a supplier, plus accrued interest, if the refund exceeds \$5 10 per average residential customer under the applicable PGA clause customer classification or grouping. The utility may refund lesser amounts through the applicable customer classification or grouping or retain undistributed refund amounts in special refund retention accounts for each customer classification or grouping under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed \$5 10. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

b. Within 30 days of receipt of a refund from a supplier, the utility shall file with the board refund plan the following information:

- (1) A statement of reason for the refund.
- (2) The amount of the refund with support for the amount.
- (3) The balance of the appropriate refund retention accounts.
- (4) The amount due under each purchased gas adjustment clause customer classification or grouping.

b. If the supplier refund will result in a refund distribution, the utility shall also file within 30 days:

- (4 5) The intended period of the refund distribution.
- (2 6) The estimated interest accrued for each supplier refund through the proposed refund period, with complete interest calculations and supporting data as determined in paragraph 19.10(8)“e.” “d.”

(3 7) The total amount to be refunded, the amount to be refunded per customer classification or PGA grouping, and the refund per ccf or therm.

c. Within 30 days of receipt of a refund from a supplier which will result in a refund retention, the utility shall also file with the board for its approval a refund retention report which shall include the following information:

(4 8) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with the complete interest calculation and support as determined in paragraph 19.10(8)“e.” “d.”

(2 9) The total amount to be retained, the amount to be retained per customer class classification or PGA grouping, and the level per ccf or therm.

(3 10) The calculations demonstrating that the retained balance is less than \$5 10 per average residential customer with supporting schedules for all factors used.

d c. The refund to each customer shall be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.

e d. The interest rate on refunds distributed under this subrule, compounded annually, shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the “Money Rates” section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.

f e. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

g f. The minimum amount to be refunded by check shall be \$1 5.

ITEM 8. Amend rule 199—19.16(476) as follows:

199—19.16(476) Reserve margin.

19.16(1) Applicability. All rate-regulated gas utility companies may maintain a reserve of natural gas contract services in excess of their historic peaks maximum daily system demand requirement and recover the cost of the reserve from their customers through the purchased gas adjustment.

19.16(2) Definitions.

a. Gas available to meet demand Contract services. All The amount of firm gas delivery capacity or delivery services contracted for use by a utility to satisfy its maximum daily system demand requirement, including the planned delivery capacity of the utility-owned liquefied natural gas facilities, but excluding the delivery capacity of liquefied natural gas and propane storage facilities, shall be considered as gas available to meet demand contract services.

b. Contract demand. The amount of firm gas a utility is entitled to take on a daily basis, pursuant to contract.

c b. Base period Maximum daily system demand requirements. The maximum peak of the previous seven heating seasons (12-month period ending June 30) shall form the base period demand to establish a utility's maximum peak demand daily gas demand requirement that the utility forecasts to occur on behalf of its system firm sales customers under peak (design day) weather conditions.

c. Design day. The maximum heating season forecast level of all firm sales customers' gas requirements during a 24-hour period beginning at 9 a.m. The design day forecast shall be the combined estimated gas requirements of all firm sales customers calculated by totaling the gas requirements of each customer classification or grouping. The estimated gas requirements for each customer classification or grouping shall be determined based upon an evaluation of historic usage levels of customers in each customer classification or grouping, adjusted for reasonably anticipated colder-than-

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normal weather conditions and any other clearly identifiable factors that may contribute to the demand for gas by firm customers. The design day calculation shall be submitted for approval by the board with the annual PGA filing required by subrule 19.10(2).

19.16(3) ~~Contract~~ *Maximum daily system demand levels requirements of less than 25,000 Mef Dth per day. A reserve margin of 9 percent or less in excess of the base period maximum daily system demand requirements will be presumed reasonable.*

19.16(4) ~~Contract~~ *Maximum daily system demand levels requirements of more than 25,000 Mef Dth per day. A reserve margin of 5 percent or less in excess of the base period maximum daily system demand requirements will be presumed reasonable.*

19.16(5) ~~Rebuttable presumption. All gas available to meet demand contract services in excess of an amount needed to meet the base period maximum daily system demand requirements plus the reserve is are presumed to be unjust and unreasonable unless a factual showing to the contrary is made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing. All gas available to meet demand contract services less than an amount of base period the maximum daily system demand requirements plus the reserve is are presumed to be just and reasonable unless a factual showing to the contrary can be made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing.~~

19.16(6) No change.

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ARC 3568B

VOTER REGISTRATION COMMISSION[821]

Adopted and Filed

Pursuant to the authority of Iowa Code section 47.8(1), the Voter Registration Commission hereby adopts amendments to Chapter 2, "Voter Registration Applications, Acceptability, Registration Dates, and Effective Dates," Chapter 5, "Election Registers," Chapter 8, "Transmission of Registration Forms by Agencies," Chapter 10, "Notice to Voters Without Activity in Four Years in Counties Using NCOA Records; to All Voters in Other Counties," and Chapter 11, "Registration Procedure at the Office of Driver Services, Department of Transportation," Iowa Administrative Code.

These amendments are intended to implement Iowa Code chapter 48A as amended by 2004 Iowa Acts, Senate File 2269, and Section 303 of the Help America Vote Act of 2002 (Pub. L. 107-252) (HAVA). Changes to Iowa Code chapter 48A made in 2004 Iowa Acts, Senate File 2269, require that all new voter registration applications include the applicant's Iowa driver's license number, if the applicant has one. If the applicant does not have an Iowa driver's license, the applicant must provide the number on the applicant's nonoperator's identification card. If the applicant has neither of these two forms of identification, the applicant must provide the

last four numbers of the applicant's social security number. A new application without the appropriate identification number cannot be accepted or processed, unless the applicant reports that the applicant does not have any of the required forms of identification. Changes to existing rules affected by this change are included in Items 4, 5 and 13.

Several other changes to the rules are needed to implement the requirement. The voter registration form is referred to in the Commission's current rules both as a "form" and as an "application." To establish a distinction between references to new applications and to changes in existing registration records, the amendment to subrule 2.1(2) in Item 3 provides definitions of "by mail" and "application." The paper document, which may be used for both new registration applications and for changes to existing ones, is referred to as the "voter registration form." The submission of a voter registration form from a person who is not registered to vote is defined as an "application." There are several other amendments to incorporate this distinction into the existing rules in Items 1, 2, 7, 12, 14, 15 and 17.

In Items 4, 5 and 6, the Commission amends rules 821—2.8(48A) and 821—2.9(48A) to provide details for processing incomplete applications. Section 12 of 2004 Iowa Acts, Senate File 2269, forbids accepting or processing new voter registration applications that lack required information. The amendments include prescribed text for notices to applicants who submit incomplete applications.

Some incomplete applications can be processed but require further action by the applicant. In Items 8 and 9, the Commission adopts new rules to define the status of incomplete but processed applications. Item 11 amends the list of required information in election registers to include the registration status.

The amendment in Item 16 adjusts the period of inactivity allowed to lapse before voters are contacted. HAVA and section 16 of 2004 Iowa Acts, Senate File 2269, require contacting voters who have not voted or updated their voter registration records for the time period between two general elections. This is a change from the existing law, which requires waiting for four years.

Notice of Intended Action was published in the June 9, 2004, Iowa Administrative Bulletin as **ARC 3428B**. The adopted amendments incorporate changes recommended by public comment, legal counsel and voter registration staff members. The Commission has made editorial corrections to Items 4 and 16. In Item 5, the Commission has revised new subrule 2.8(4) to specify the use of the notice form in 2.8(5) and to clarify that the purpose for contacting an applicant by telephone is to convey the information that the applicant must provide the information missing from the applicant's registration form in writing. The Commission has added new subrule 2.8(8), which specifies the retention period for rejected voter registration applications. "Pending" status described in 2.14(3) has been divided into two categories to differentiate between registration records that become active when the applicant provides appropriate identification documents and records that become active when the registration information has been verified. Changes to the "pending" status reference also appear in Items 5, 8, and 9. The "local" status description in subrule 2.14(4) has been expanded to clarify that voters in this category may vote in all elections for which there are no federal offices on the ballot and that the names of these voters shall appear on the election register for an election at which there are federal offices on the ballot. The notice prescribed in 2.15(3) has been revised to advise applicants whose registration applications were not complete that they may register in person at the commissioner's office,

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and at other locations, in lieu of mailing a new voter registration application. Subrule 2.15(4) has been revised to include the retention period for verification information records. Subrule 2.15(5) has been added to include the procedure required by section 13 of 2004 Iowa Acts, Senate File 2269; if an application cannot be verified before the close of registration, the applicant shall be notified by mail.

The Voter Registration Commission approved these amendments during the Commission's July 14, 2004, meeting.

These amendments will become effective on September 10, 2004.

These amendments are intended to implement Iowa Code chapter 48A as amended by 2004 Iowa Acts, Senate File 2269.

The following amendments are adopted.

ITEM 1. Amend the title of **821—Chapter 2** to read as follows:

CHAPTER 2
VOTER REGISTRATION APPLICATIONS
FORMS, ACCEPTABILITY, REGISTRATION
DATES, AND EFFECTIVE DATES

ITEM 2. Amend the catchwords for rule 821—2.1(48A) to read as follows:

821—2.1(48A) Required elements Voter registration forms.

ITEM 3. Rescind subrule 2.1(2) and insert in lieu thereof the following **new** subrule:

2.1(2) Definitions.

“Application” means a request to register to vote from a person who is not registered to vote in the county where the voter registration form is submitted. An application shall be made on a voter registration form prescribed by the voter registration commission.

“By mail” means an application received through the mail from an individual applicant. “By mail” does not include registration forms sent through the mail by voter registration agencies or organizations that solicit voter registrations.

ITEM 4. Amend subrule 2.8(2) to read as follows:

2.8(2) A *The commissioner shall not add to the official voter registration file a voter whose registration application that lacks either the any of the following information about the applicant:*

a. The applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number shall be entered as a pending registration until the next federal election. Within seven days after receipt of the application, the commissioner shall contact the applicant by mail and request the missing required information. The applicant may provide the required information in writing until the date registration closes for the next federal election by appearing in person at the commissioner's office to complete a new application, by mailing a new and complete application, or by sending a letter to the commissioner. If the applicant reports that the applicant has not been issued either an Iowa driver's license, Iowa department of transportation-issued nonoperator's identification card number, or a social security number, the commissioner shall assign a unique identifying number that shall serve to identify the registrant for voter registration purposes and enter the registration as active. ;

- b. Name;*
- c. Sex;*
- d. Date of birth;*
- e. Residence address or description.*

ITEM 5. Amend rule 821—2.8(48A) by adding the following **new** subrules:

2.8(4) Within seven days after receipt of an incomplete application, the commissioner shall contact the applicant by mail, using the notice prescribed in subrule 2.8(5), and request the missing required information. If the applicant failed to provide an address, the commissioner shall make a reasonable effort to determine where the acknowledgment should be sent. However, if the incomplete application is received during the 12 days before the close of registration for an election, the commissioner shall provide the registrant with an opportunity to complete the form before the close of registration by sending written notice within one working day after receiving the incomplete application. If the applicant provided a telephone number, the commissioner shall also attempt to contact the applicant by telephone to convey the information contained in the notice required in subrule 2.8(5).

2.8(5) The notice shall instruct the applicant that the applicant may provide the required information in writing by appearing in person at the commissioner's office to complete a new application or by mailing a new and complete application. The notice shall include the date registration closes for the next election.

2.8(6) If the application does not include the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number, the notice described in subrule 2.8(5) shall also include the following statement:

“Your voter registration application cannot be accepted because it does not include an Iowa driver's license number, an Iowa non-driver ID number or the last four numbers of your social security number. You must submit a new voter registration form. If you submit the registration form by mail, your registration information will be checked against the records of the Iowa Department of Transportation driver's license files. This process may delay the effective date of your registration. If your registration information cannot be verified, your registration application will be rejected. Verification is not required if you submit your application in person.

“ID number required. If you have an Iowa driver's license, you must put that number on the voter registration form. If you do not have an Iowa driver's license, use the number from your Iowa non-driver ID card. If you do not have either of these, put the last four numbers of your social security number on the form. If you don't have any of these ID numbers, please write 'NONE' in the box on the form. Please note that it is a crime to lie on a voter registration application.”

2.8(7) If the applicant reports that the applicant has not been issued an Iowa driver's license, an Iowa department of transportation-issued nonoperator's identification card number, or a social security number, the commissioner shall assign a unique identifying number that shall serve to identify the registrant for voter registration purposes and enter the registration as “pending identification.”

2.8(8) The commissioner shall keep a rejected application for voter registration for 22 months after the date of the next general election after the application was received.

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ITEM 6. Amend rule 821—2.9(48A) to read as follows:

821—2.9(48A) Optional data not required. No commissioner shall refuse to register or accept an application from an applicant who fails or declines to reveal the applicant's social security number, telephone number or political party affiliation.

ITEM 7. Amend rule 821—2.11(48A) to read as follows:

821—2.11(48A) Registration forms in languages other than English. Notwithstanding any other provision of these rules, any county commissioner may cause production of any approved voter registration application form in a language other than English if the commissioner determines that such a form would be of value in the commissioner's county. The registrar shall assist any county commissioner with the translation of voter registration forms upon the request of the county commissioner.

ITEM 8. Amend 821—Chapter 2 by adding the following **new** rule:

821—2.14(48A) Voter registration status codes. Voter registration records shall be coded to show the status of the record.

2.14(1) Active. The registration is in good standing. No action is required on the part of either the registrant or the commissioner.

2.14(2) Inactive (I). The registration will be deleted after two general elections unless the registrant responds to a confirmation mailing pursuant to Iowa Code section 48A.27(4)"c," votes in an election or submits a registration form updating the registration. Inactive registrants shall show identification when voting in person, pursuant to Iowa Code section 49.77(3), or shall submit a voter registration form when voting by absentee ballot, pursuant to 721 IAC 21.301(53).

2.14(3) Pending.

a. (P) Pending identification. Any application received by mail before September 10, 2004, cannot be activated until the applicant provides one of the required identification documents prescribed in 721 IAC 21.3(49), or the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number and the information is verified. On and after September 10, 2004, any application received by mail shall be entered into the system as "pending identification" only if the applicant reports that the applicant does not have any of the three acceptable identification documents.

b. (V) Pending verification. On and after September 10, 2004, any application received by mail from an applicant who provides the required ID number shall be "pending verification" until the number is verified, pursuant to 821 IAC 2.15(48A).

2.14(4) Local (L). The registrant applied by mail to register to vote and failed to check the box on the voter registration form indicating that the applicant is a U.S. citizen. The registrant may provide the required information in writing until the day before the next federal election by appearing in person at the commissioner's office to complete a new voter registration form, by mailing to the commissioner a new and complete voter registration form, or by sending a letter to the commissioner, pursuant to 821 IAC 2.8(3). The registrant may vote in all elections for which there are no federal offices on the ballot. The commissioner shall print the name of a registrant with local status on the election register for an election if there are federal offices on the ballot.

2.14(5) Pending and inactive (N). The applicant must comply with the requirements to correct both of these status codes.

2.14(6) Local and inactive (C). The applicant must comply with the requirements to correct both of these status codes.

ITEM 9. Amend 821—Chapter 2 by adding the following **new** rule:

821—2.15(48A) Verification of voter registration information. Every new voter registration application by mail shall be entered as "pending verification" until the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number can be verified. The registrar may arrange with the department of transportation for county commissioners of elections to verify voter registration records without submitting the registration information to the registrar.

2.15(1) When the application is received, the registrar or commissioner shall compare the Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the social security number of each mail application with the records of the department of transportation.

2.15(2) All of the following information on the application must match an existing record:

a. All digits and numerals in the Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the social security number.

b. Name.

c. Date of birth, including the month, day and year.

2.15(3) If all three required elements do not match, the application shall be rejected and the applicant shall be notified of the reason. The notice shall include the following statement:

"Your voter registration application was rejected because the information you provided could not be verified. Your name, date of birth and Iowa driver's license number, Iowa non-driver ID number, or the last four digits of your social security number were compared to the Iowa driver's license records. The following items did not match an existing record: [list nonmatching items]."

"You may send in a new registration form. Please print your name, date of birth and Iowa driver's license number exactly as they appear on your Iowa driver's license. If you do not have an Iowa driver's license, print your name, date of birth and Iowa non-driver ID number exactly as they appear on your non-driver ID card. If you don't have either of those cards, use the last four digits of your social security number and print your name on the registration form exactly as it appears on your social security card. You may also register in person at [auditor's office address and other registration addresses at the discretion of the commissioner]. In-person registration applications are not subject to verification."

2.15(4) If the application is verified, the registration record shall be made "active." The registrar or commissioner shall keep records showing whether the information in the application was verified and the date of the verification report. If the application cannot be verified, the record shall show what information on the application did not match an existing record. The verification information shall be kept for the period of time required in Iowa Code section 48A.32.

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2.15(5) If an application cannot be verified before the close of registration, the applicant shall be notified by mail. The notice shall read as follows:

“Your application for voter registration has been submitted for verification, but has not yet been verified. Your name will not appear on the election register for the _____ election. If you vote, you will be required to cast a provisional ballot. Your ballot will be counted only if your registration can be verified by [date and time of county canvass of votes].

“The following information has been submitted for verification: Name, date of birth, Iowa driver’s license number, Iowa non-driver ID number or the last four digits of your social security number. If any of this information is wrong, please contact _____ immediately.”

ITEM 10. Amend **821—Chapter 2**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 48A as amended by 2004 Iowa Acts, Senate File 2269.

ITEM 11. Amend subrule 5.1(1) to read as follows:

5.1(1) Election registers shall contain at least the following information:

- a. Full name.
- b. Address.
- c. Date of birth.
- d. Registration status if it is not active.
- ¶ e. Political affiliation (for partisan primary elections only).

ITEM 12. Amend rule 821—8.2(48A), introductory paragraph, to read as follows:

821—8.2(48A) Data elements of paperless voter registration applications transactions. The file specified in rule 8.1(48A) shall contain the following information:

ITEM 13. Amend rule **821—8.2(48A)**, numbered paragraph “2,” to read as follows:

2. The applicant’s *Iowa driver’s license number, if the applicant has one. If not, the applicant’s Iowa department of transportation-issued nonoperator’s identification card number. If the applicant has neither, the last four digits of the applicant’s social security number, if the applicant chooses to provide it;*

ITEM 14. Amend rule 821—8.4(48A) to read as follows:

821—8.4(48A) Technical requirements for electronic signatures. Agencies which accept and collect paperless voter registration *applications transactions* shall maintain an electronic “copy” of the document, including the applicant’s sig-

nature. The design of the system shall be such that no change to the document can be made and the document can be reproduced in hard copy when necessary.

ITEM 15. Amend rule 821—8.5(48A) to read as follows:

821—8.5(48A) Transmission of paper applications voter registration forms. *Applications Voter registration applications or changes* accepted on paper documents by agencies shall be sent to the appropriate county commissioner by courier, U.S. mail, or other reliable carrier not later than the Friday of the week in which the document is received by the agency. If an agency receives *applications completed voter registration forms* on the Saturday which is a close of registration date for an election, the agency shall forward those registration *applications forms* immediately following the end of that business day. Nothing in these rules shall be construed to require an agency to be open for business on the last day of registration for an election.

ITEM 16. Amend subrule 10.1(1) to read as follows:

10.1(1) During the first quarter of each calendar year, every commissioner who receives *National Change of Address (NCOA) program* information shall examine voter registration records to identify those without activity during the ~~four~~ *previous calendar years period between and following the previous two general elections* and for which no information has been reported in NCOA data. For the purpose of this subrule, “activity” means any registration application, including an application which duplicates existing information, a notice of change of name, address, mailing address, party affiliation, a vote in any election, or the mailing of a notice pursuant to subrule 10.1(2).

ITEM 17. Amend rule 821—11.7(48A) to read as follows:

821—11.7(48A) Electronic applications voter registration transactions. Registration ~~applications~~ *transactions* shall be transmitted electronically to the registrar in accordance with 821—Chapter 8. *Every transaction shall include the applicant’s Iowa driver’s license number or Iowa department of transportation-issued nonoperator’s identification card number.*

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